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DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[Docket No. DHS–2016–0016]

Privacy Act of 1974: Implementation of Exemptions; Department of Homeland Security/U.S. Customs and Border Protection-007 Border Crossing Information System of Records

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: The Department of Homeland Security (DHS) is issuing a final rule to extend the exemptions from certain provisions of the Privacy Act to the updated and reissued system of records titled, ''DHS/U.S. Customs and Border Protection (CBP)-007 Border Crossing Information System of Records.'' Specifically, the Department exempts portions of the ''DHS/CBP–007 Border Crossing Information System of Records'' from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

DATES: This final rule is effective March 21, 2016.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: John Connors, (202) 344–1610, Privacy Officer, U.S. Customs and Border Protection, Privacy and Diversity Office, 1300 Pennsylvania Avenue NW., Washington, DC 20229. For privacy questions, please contact: Karen L. Neuman, (202) 343–1717, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Homeland Security (DHS) U.S. Customs and Border Protection (CBP) published a notice of proposed rulemaking in the **Federal Register,** 80 FR 79487, Dec. 22, 2015, proposing to exempt portions of the system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements. DHS reissued the DHS/CBP–007 Border Crossing Information (BCI) System of Records in the **Federal Register** on May 11, 2015 (80 FR 26937), to provide notice to the public that DHS/CBP was updating the categories of records to include the capture of certain biometric information and Advance Passenger Information System (APIS) records at the border. This final rule exempts portions of the new categories of records ingested from APIS that are claimed for APIS records pursuant to 5 U.S.C. 552a(j)(2) and 5 U.S.C. 552a(k)(2).

II. Public Comments

DHS received no comments on the NPRM and will implement the rulemaking as proposed.

List of Subjects in 6 CFR Part 5

Freedom of information, Privacy.

For the reasons stated in the preamble, DHS amends chapter I of title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

■ 1. The authority citation for part 5 continues to read as follows:

Authority: Pub. L. 107–296, 116 Stat. 2135; (6 U.S.C. 101 *et seq.*); 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

■ 2. In appendix C to part 5, revise paragraph 46 to read as follows:

Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

* * * * *

46. The DHS/CBP–007 Border Crossing Information System of Records consists of electronic and paper records and will be used by DHS and its Components. The DHS/CBP–007 Border Crossing Information System of Records is a repository of information held by DHS in connection with its several and varied missions and functions including, but not limited to the enforcement of civil and criminal laws; investigations, inquiries, and proceedings thereunder; and law enforcement, border security, and intelligence activities. The DHS/CBP–007 Border Crossing Information System of Records contains information that is collected by, on behalf of, in support of, or in cooperation with DHS and its Components and may contain personally identifiable information collected by other Federal, State, local, tribal, foreign, or international government agencies. At the time of border crossing and during the process of determining admissibility, CBP collects two types of data for which it claims different exemptions.

(a) CBP will not assert any exemption to limit an individual from accessing or amending his or her record with respect to information maintained in the system that is collected from a person at the time of crossing and submitted by that person's air, sea, bus, or rail carriers.

The Privacy Act requires DHS to maintain an accounting of the disclosures made pursuant to all routine uses. Pursuant to 5 U.S.C. 552a(j)(2), CBP will not disclose the fact that a law enforcement or intelligence agency has sought particular records because it may affect ongoing law enforcement activities. The Secretary of Homeland Security has exempted this system from subsections (c)(3), (e)(8), and (g) of the Privacy Act of 1974, as amended, as is necessary and appropriate to protect this information. Further, DHS will claim exemption from subsection (c)(3) of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(k)(2) as is necessary and appropriate to protect this information. Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(i) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the

accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(ii) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with DHS's ability to obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal and could result in disclosure of investigative techniques, procedures, and evidence.

(iii) From subsection (g) (Civil Remedies) to the extent that the system is exempt from other specific subsections of the Privacy Act.

(b) Additionally, this system contains records or information recompiled from or created from information contained in other systems of records that are exempt from certain provisions of the Privacy Act. For these records or information only, the Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(j)(2), has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3), (c)(4); (d)(1)–(4); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5) and (e)(8); (f); and (g). Additionally, the Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(k)(2), has exempted this system from the following provisions of the Privacy Act, 5 U.S.C. 552a(c)(3); (d)(1)–(4); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(i) From subsection (c)(3) and (c)(4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(ii) From subsection (d) (Access to Records) because access to the 6records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an unreasonable administrative burden by requiring investigations to be continually reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(iii) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of federal law, the accuracy of information obtained or introduced occasionally may be unclear, or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(iv) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of the investigation, thereby interfering with that investigation and related law enforcement activities.

(v) From subsection (e)(3) (Notice to Subjects) because providing such detailed information could impede law enforcement by compromising the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(vi) From subsections (e)(4)(G), (e)(4)(H), and (e)(4)(I) (Agency Requirements) and (f) (Agency Rules), because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, potential witnesses, and confidential informants.

(vii) From subsection (e)(5) (Collection of Information) because with the collection of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with subsection (e)(5) would preclude DHS agents from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(viii) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with DHS's ability to obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal and could result in disclosure of investigative techniques, procedures, and evidence.

(ix) From subsection (g) (Civil Remedies) to the extent that the system is exempt from other specific subsections of the Privacy Act.

* * * * *

Dated: March 2, 2016.

Karen L. Neuman,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2016–06233 Filed 3–18–16; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 234

U.S. Customs and Border Protection

19 CFR Part 122

[USCBP–2016–0015; CBP Dec 16–06]

RIN 1651–AB10

Flights to and From Cuba

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: Interim final rule; request for comments.

SUMMARY: Current U.S. Customs and Border Protection (CBP) regulations contain a separate subpart O addressing flights to and from Cuba. The provisions in that subpart are either obsolete due to intervening regulatory changes or are duplicative of regulations applicable to all other similarly situated international flights. This rule therefore amends the regulations by removing subpart O. These amendments are consistent with the President's policy promoting the normalization of relations between the United States and Cuba.

DATES: This interim final rule is effective on March 21, 2016. Comments must be received by April 20, 2016.

ADDRESSES: You may submit comments, identified by docket number, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments via docket number USCBP–2016–0015.
- *Mail:* Border Security Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* Comments submitted will be available for public inspection during regular business days between the hours of 9:00 a.m. and 4:30 p.m. at Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 90 K Street NE., 10th Floor, Washington, DC 20229–1177. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Arthur A.E. Pitts, Sr., U.S. Customs and Border Protection, Office of Field Operations, by phone at (202) 344–2752 or by email at *arthur.a.pitts@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the interim final rule. DHS also invites comments that relate to the economic, environmental, or federalism effects that might result from this interim final rule. Comments that will provide the most assistance to DHS will reference a specific portion of the interim final rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

Background

As part of the President's new approach to Cuba policy, DHS and CBP examined their regulations and policies pertaining to Cuba, particularly as they relate to air travel between the two countries.[1] The existing regulations pertaining to flights to and from Cuba (codified at 19 CFR part 122, subpart O) are no longer needed because they are either obsolete in light of intervening regulatory changes or substantively identical to the general CBP requirements applicable to aircraft seeking to fly into or out of the United States. Accordingly, DHS is amending 19 CFR part 122 to remove subpart O and to make conforming amendments to other provisions.

Under 19 CFR part 122, subpart O, only certain CBP-approved airports may accept aircraft traveling to or from Cuba. Section 122.153 (19 CFR 122.153) provides a process by which a port authority must submit a written request to CBP requesting that an airport receive approval to accept flights to or from Cuba. Section 122.153 also contains a list of approved airports. The remaining sections in subpart O pertain to other requirements for flights to and from Cuba, including notice of arrival, documents to be presented upon arrival, the release of passengers arriving from Cuba, and documents required for clearance. None of the regulatory requirements that apply specifically to flights to and from Cuba is mandated by statute, but rather are authorized by the broad authority granted to the Secretary of Homeland Security respecting all aircraft arriving in and departing from the United States under 19 U.S.C. 1433, 1644 and 1644a.[2]

Prior to 2011, only three U.S. airports were authorized to accept flights to and from Cuba: John F. Kennedy International Airport, Los Angeles International Airport, and Miami International Airport. In 2011, the President announced a series of changes to ease certain restrictions on travel to and from Cuba.[3] The announcement stated that the regulation should be modified to allow a U.S. airport to apply to accept authorized flights if the airport has adequate customs and immigration capabilities and if an authorized carrier has expressed an interest in providing service between Cuba and the airport.[4] In response, DHS issued a final rule in the **Federal Register** (76 FR 5058) on January 28, 2011, that amended 19 CFR 122.153 to allow additional airports to request approval to accept Cuba flights.

On December 17, 2014, the President announced that the United States would begin the process of normalizing relations with Cuba, including taking steps to re-establish diplomatic relations (which occurred on July 20, 2015), adjust regulations to more effectively empower the Cuban people, and facilitate an expansion of authorized travel under general licenses for the twelve existing categories of travel to Cuba authorized by law.[5] As part of the President's new approach to relations with Cuba, the Department of the Treasury's Office of Foreign Assets Control (OFAC), and the Department of Commerce's Bureau of Industry and Security (BIS) have issued five sets of amendments to the Cuban Assets Control Regulations (CACR) and Export Administration Regulations (EAR), respectively.[6] In February 2016, representatives from the Departments of State and Transportation signed an arrangement with Cuba that provides the basis for the restoration of scheduled air services between the United States and Cuba.[7]

In light of these intervening regulatory changes, the regulations specifically addressing flights to and from Cuba in 19 CFR part 122, subpart O are no longer necessary. Accordingly, DHS is removing that subpart. DHS is also making conforming amendments to certain provisions in titles 8 and 19 of the CFR: 8 CFR 234.2, 19 CFR 122.31, and 19 CFR 122.42. The removal of part 122, subpart O, will make clear that flights to and from Cuba are subject to the same entry and clearance requirements in 19 CFR part 122 as all other similarly situated international flights.

Removal of 19 CFR Part 122, Subpart O

Part 122, subpart O, of title 19 CFR, consists of eight sections numbered

[1] *See Fact Sheet: Charting a New Course on Cuba,* The White House (Dec. 17, 2014), *https://www.whitehouse.gov/the-press-office/2014/12/17/statement-president-cuba-policy-changes.*

[2] Specifically, 19 U.S.C. 1433(c) provides that the pilot of any aircraft arriving in the United States or the U.S. Virgin Islands from any foreign location is required to comply with such advance notification, arrival reporting, and landing requirements as regulations may require. Under 19 U.S.C. 1644 and 1644a, the Secretary can designate ports of entry for aircraft and apply vessel entry and clearance laws and regulations to civil aircraft.

[3] *Reaching Out to the Cuban People,* The White House (Jan. 14, 2011), *https://www.whitehouse.gov/the-press-office/2011/01/14/reaching-out-cuban-people.*

[4] *Id.*

[5] *Fact Sheet: Charting a New Course on Cuba,* The White House (Dec. 17, 2014), *https://www.whitehouse.gov/the-press-office/2014/12/17/fact-sheet-charting-new-course-cuba.*

[6] *See* 81 FR 13989 (Mar. 16, 2016), 81 FR 4583 (Jan. 27, 2016), 80 FR 56915 (Sept. 21, 2015), 80 FR 34053 (June 15, 2015), and 80 FR 2291 (Jan. 16, 2015) (amending the CACR); 81 FR 13972 (Mar. 16, 2016), 81 FR 4580 (Jan. 27, 2016), 80 FR 56898 (Sept. 21, 2015), 80 FR 43314 (July 22, 2015), and 80 FR 2286 (Jan. 16, 2015) (amending the EAR).

[7] *United States, Cuba Sign Arrangement Restoring Scheduled Air Service,* U.S. Dep't of Transp. (Feb. 16, 2016), *https://www.transportation.gov/briefing-room/united-states-cuba-sign-arrangement-restoring-scheduled-air-service.*

from 122.151 to 122.158 (19 CFR 122.151–122.158). A description of each section follows, along with an explanation as to why it is no longer necessary, desirable, or consistent with the U.S. government's current approach towards Cuba.

Section 122.151 (19 CFR 122.151) consists of two definitions, one for the ''United States'' and one for ''Cuba,'' which apply within subpart O. The definition for the ''United States'' is duplicative of the one in 19 CFR 122.1(l), and is therefore unnecessary. ''Cuba'' is not defined in 19 CFR 122.1, but this definition is also unnecessary in light of the removal of the special regulations governing flights to and from Cuba.

Section 122.152 (19 CFR 122.152), regarding the application of subpart O, provides that the subpart applies to all aircraft entering or departing the United States to or from Cuba, except for public aircraft. As explained below, the other sections in subpart O are unnecessary, so there is no longer a need for this section.

Section 122.153 (19 CFR 122.153) covers the limitation on airports of entry and departure for flights to and from Cuba. Under this section, flights to or from Cuba are limited to the Miami International Airport, John F. Kennedy International Airport, Los Angeles International Airport, or any other airport approved by CBP according to the procedures in paragraph (b). Paragraph (b) of § 122.153 outlines the approval process, which allows an international airport, landing rights airport, or user fee airport to request CBP approval to become an airport of entry and departure for aircraft traveling to and from Cuba. Under this process, CBP would determine whether the airport is properly equipped to facilitate passport control and baggage inspection and whether there is an OFAC licensed carrier that is prepared to provide flights between the airport and Cuba. Approved airports are listed on the CBP Web site and in updates to a list of approved airports in paragraph (c) of § 122.153.

The limitations regarding airports authorized to provide flights to and from Cuba are not required by statute. The regulation, now codified at 19 CFR 122.153, was originally promulgated in 1980 and appeared at 19 CFR 6.3a. The preamble for the **Federal Register** document implementing the regulation stated that ''[b]ecause of the present situation involving aliens attempting to reach the U.S. from Cuba, there is serious reason to believe that unsafe and unlawful means of transportation will be utilized.'' [8] As to the authority underlying the new limits, the preamble stated the rule was being undertaken in accordance with regulations propounded by the Federal Aviation Administration (14 CFR 91.101), the Immigration and Naturalization Service (8 CFR parts 231 and 239), and the Department of Commerce (15 CFR 371.19). None of these authorities limits the number of airports that can service flights to or from Cuba or requires an application process to qualify airports to service Cuban flights in particular.

DHS has determined that the approval process set forth in § 122.153(b) is no longer necessary because the criteria for obtaining approval to accept flights to and from Cuba are not materially different than the requirements applicable to all other similarly situated airports and aircraft operators seeking to conduct international flights. In evaluating requests by aircraft for permission to land at an international, landing rights or user fee airport, CBP researches and evaluates the impact on the overall operations at a given airport regardless of its classification. CBP also evaluates, in consultation with the airport authority where appropriate, the ability of the proposed airport to handle the flight, travelers, baggage, and cargo. CBP ensures that each airport for which a new international flight is requested is equipped to facilitate passport control and baggage inspection, and has the appropriate infrastructure to properly service the plane from the runway to its assigned gate.[9]

The requirement in § 122.153 that the requesting airport must have an OFAC-licensed carrier service provider that is prepared to provide flights between the airport and Cuba is obsolete. OFAC no longer requires an air carrier to obtain a specific license to provide carrier services to or from Cuba. Rather, an air carrier may fly to or from Cuba pursuant to a general license under the CACR, so long as the air carrier is providing carrier services in connection with travel or transportation of persons, baggage, or cargo that is itself authorized under the CACR, 31 CFR part 515, and is no longer required to obtain a specific license from OFAC.[10] *See* 31 CFR 515.317 and 515.572(a).

Accordingly, by eliminating § 122.153, CBP will make clear that it follows the same process in certifying flights to and from Cuba as it does with all international flights. Aircraft operators will be required to follow the usual procedures for international flights found in governing law, including the regulations in 19 CFR part 122, subpart B, for obtaining permission to land and to secure new international routes. The specific requirements vary depending on whether the airport is an international airport, a landing rights airport, or a user fee airport. *See* 19 CFR 122.11–122.13 (international airports); 122.14 (landing rights airports); 122.15 (user fee airports).

Section 122.154 (19 CFR 122.154) sets forth notice of arrival requirements. This section provides that all aircraft entering the United States from Cuba (except for OFAC-approved scheduled commercial aircraft of a scheduled airline) must give advance notice of arrival, not less than one hour before crossing the U.S. coast or border. The notice must provide the type of aircraft; name of the aircraft commander; number of U.S. citizen and alien passengers; place of last foreign departure; estimated time of crossing the border; and estimated time of arrival. Section 122.154 is being removed as it is redundant with other provisions within part 122. Generally, all inbound aircraft (not just those arriving from Cuba) are required to

[8] 45 FR 29247 (May 1, 1980).

[9] Certain aircraft arriving from areas south of the United States are subject to a modified process. Such flights are subject to specific notice of arrival requirements and must land at the airport listed under 19 CFR 122.24(b) that is nearest the point at which the aircraft crosses the border, unless an overflight exemption is granted. *See* 19 CFR 122.23–122.25. In designating the airports listed in 19 CFR 122.24(b), CBP has determined that these airports have adequate facilities and resources available to inspect and process aircraft subject to the regulation and their attendant crew, passengers, and cargo. If an exemption is sought pursuant to 19 CFR 122.25, CBP considers whether the proposed destination airport has adequate resources to handle the flight, travelers, baggage, and cargo, just as it considers these factors when deciding whether to grant permission to land a new international flight that is not subject to 19 CFR 122.24. This modified process does not apply to (1) public aircraft, (2) aircraft operated on a regularly published schedule, pursuant to a certificate of public convenience and necessity or foreign aircraft permit issued by the Department of Transportation, authorizing interstate, overseas air transportation; or (3) aircraft with a seating capacity of more than 30 passengers or a maximum payload capacity of more than 7,500 pounds which are engaged in air transportation for compensation or hire on demand. *See* 19 CFR 122.23(a). With the removal of 19 CFR part 122, subpart O, the requirements in 19 CFR 122.23–122.25 would apply to flights to and from Cuba that fall within the scope of those regulations.

[10] According to OFAC, ''A general license authorizes persons subject to U.S. jurisdiction to provide carrier services by vessel or aircraft to, from, or within Cuba, in connection with authorized travel, without the need for a specific license.'' *Frequently Asked Questions Related to Cuba,* U.S. Department of Treasury (last updated Mar. 15, 2016), *https://www.treasury.gov/resource-center/sanctions/Programs/Documents/cuba_faqs_new.pdf. See also* 31 CFR 501.801(a) (''General licenses have been issued authorizing under appropriate terms and conditions certain types of transactions which are subject to the prohibitions contained in this chapter.'').

provide notice to CBP prior to arriving in the United States. Section 122.22 (19 CFR 122.22) generally requires all private aircraft pilots to transmit notice of arrival and manifest information to CBP at least 60 minutes prior to departure of the aircraft from the foreign port or place.[11] The data required under § 122.22 includes the data required under § 122.154. Section 122.23 (19 CFR 122.23) requires similar notice of arrival information for certain non-public aircraft arriving from locations south of the United States. Section 122.31 (19 CFR 122.31) requires advance notice of arrival from all other aircraft, with the exception of aircraft of a scheduled airline arriving under a regular schedule. In addition, 19 CFR 122.49a, 122.49b, 122.49c, and 8 CFR 231.1(a) require commercial carriers to transmit electronic manifest information for all passengers and crew.

Section 122.155 (19 CFR 122.155) requires the aircraft commander of a flight arriving from Cuba to present to CBP the manifest required by 8 CFR 231.1(b),[12] and the documents required by subpart E of 19 CFR part 122, upon arrival in the United States. As § 122.155 merely cross-references subpart E of 19 CFR part 122 and 8 CFR 231.1(b), the information referred to in this section is already required of all aircraft that are subject to the cited provisions. Furthermore, 19 CFR 122.22 imposes electronic manifest requirements on private aircraft that are commensurate with the electronic manifest requirements for commercial aircraft contained in subpart E.

Section 122.156 (19 CFR 122.156) concerns the release of passengers and aircraft. This section provides that neither passengers arriving from Cuba, nor the aircraft, will be released by Customs before the passengers are released by the Immigration and Naturalization Service or a Customs officer acting on behalf of that agency. This section is outdated due to the reorganization in 2002 which prompted the creation of CBP, in which customs and immigration functions were consolidated.[13] Moreover, the requirement that all arriving persons report to a Customs officer and that all aliens seeking admission undergo immigration inspection is set forth in various provisions in the United States Code and titles 19 and 8 of the CFR.[14] Clearance of aircraft departing the United States is covered generally in 19 CFR part 122, subparts F, G, H and I.

Section 122.157 (19 CFR 122.157) sets forth the documents that are required to clear an aircraft for departure. Under this section, the aircraft commander must present documents required by subpart H and a license issued by the Department of Commerce under 15 CFR 371.19 or by the Department of State under 22 CFR part 123. This section is outdated and is no longer necessary. First, 15 CFR 371.19 no longer exists. Under the current regulations, flights on a ''temporary sojourn'' to or from Cuba generally qualify for a license exception under the EAR provided they meet certain conditions, which are administered by BIS. In general, flying an aircraft to Cuba, even temporarily, constitutes an export or re-export to Cuba.[15] However, the governing EAR provision authorizes departure from the United States of foreign registry civil aircraft on temporary sojourn in the United States and of U.S. civil aircraft for temporary sojourn abroad.[16] Thus, if the aircraft departing the United States for Cuba meets the ''temporary sojourn'' definition to qualify for the license exception, there is no license requirement imposed on such aircraft. Second, clearance requirements for all international flights are currently covered under 19 CFR part 122, subparts C, F, G and H. 22 CFR part 123, which pertains to the importation or exportation of certain defense articles, contains other potential requirements for clearance. These requirements, however, are not specific to flights to and from Cuba and would apply regardless of the removal of 19 CFR part 122, subpart O.

Section 122.158 (19 CFR 122.158) states that all other provisions of part 122 relating to entry and clearance of aircraft are applicable to aircraft subject to subpart O. This section is duplicative of 19 CFR 122.0(a), which provides that the regulations in part 122 relate to the entry and clearance of aircraft and the transportation of persons and cargo by aircraft, and are applicable to all air commerce.

For the reasons discussed above, DHS has determined that 19 CFR part 122, subpart O is no longer necessary to regulate air travel to and from Cuba due to changes in the regulatory requirements governing travel and trade between the United States and Cuba, and the implementation of robust reporting requirements that apply to international flights generally. Therefore, DHS is amending 19 CFR part 122 to remove 19 CFR part 122, subpart O, pertaining to flights to and from Cuba. Flights to and from Cuba will continue to be subject to the remaining entry and clearance requirements in 19 CFR part 122, as well as all other legal requirements relating to travel and trade between the United States and Cuba including, but not limited to, the CACR and the EAR.

Conforming Amendments

DHS is amending various sections in title 8 CFR and title 19 CFR to bring these sections into conformity with the removal of 19 CFR part 122, subpart O. These amendments are described below.

Section 234.2 of title 8 (8 CFR 234.2) sets forth landing requirements for aircraft carrying passengers or crew required to be inspected under the Immigration and Nationality Act. Section 234.2(a) specifies the general

[11] If the United States is not the original destination and the flight is diverted to the United States due to an emergency, the information is required no later than 30 minutes prior to arrival. 19 CFR 122.22(b)(2)(ii).

[12] While 19 CFR 122.155 refers to the manifest required by 8 CFR 231.1(b), § 231.1(b) actually requires the submission of a properly completed Arrival/Departure Record, Form I–94 for each arriving passenger, with certain exceptions; § 231.1(a) requires the submission of an electronic manifest.

[13] Pursuant to the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135 (HSA), as of March 1, 2003, the legacy Immigration and Naturalization Service (INS) of the Department of Justice and the legacy Customs Service of the Department of the Treasury were transferred to DHS and reorganized to become CBP, U.S. Immigration and Customs Enforcement (ICE), and U.S. Citizenship and Immigration Services (USCIS). All inspectional functions previously assigned to legacy INS were transferred to DHS. As provided in 6 U.S.C. 552(d), references relating to an agency that is transferred to DHS in statutes, executive orders, rules, regulations, directives, or delegations of authority that precede the effective date of the HSA are deemed to refer to DHS, its officers, employees, or agents, or to its corresponding organizational units or functions.

[14] *See, e.g.,* 19 U.S.C. 1459(b) and (d) (requiring all individuals arriving aboard a reported conveyance to report to the designated customs facility and prohibiting departure from the facility until authorized to do so by the appropriate customs officer); 8 U.S.C. 235(a) (requiring all aliens who are applicants for admission or otherwise seeking admission or readmission to the United States to undergo an immigration inspection); 8 CFR 235.1(a) (requiring application to lawfully enter the United States to be made in person to an immigration officer at a U.S. port-of-entry); and 8 CFR 234.2(c) (prohibiting aircraft carrying passengers or crew required to be inspected from discharging or permitting to depart any passenger or crewman without permission from an immigration officer).

[15] *Cuba*, Bureau of Industry and Security, *https://www.bis.doc.gov/index.php/policy-guidance/country-guidance/sanctioned-destinations/cuba* (last accessed Feb. 24, 2016); *see also* 15 CFR 746.2(a) (requiring a license to export or re-export all items subject to the EAR to Cuba, except as provided in the regulation).

[16] 15 CFR 740.15. Former 15 CFR 371.19, which is referenced in 19 CFR 122.157, described general licensing requirements for aircraft on a temporary sojourn to or from the United States, reflecting a prior regulatory regime that relied on general licenses, rather than license exceptions. *See* 61 FR 12714, 12778 (Mar. 25, 1996) (interim rule replacing general license requirement with license exceptions).

requirements regarding the place of landing for such aircraft and also includes a special requirement for flights to and from Cuba. Specifically, the last sentence in § 234.2(a) specifies that aircraft carrying passengers or crew required to be inspected on flights originating in Cuba land only at airports that have been authorized by CBP pursuant to 19 CFR 122.153 as an airport of entry for flights arriving from Cuba, unless advance permission to land elsewhere has been obtained from the Office of Field Operations at CBP Headquarters. DHS is amending § 234.2(a) to remove the last sentence.

Section 122.31 of title 19 (19 CFR 122.31) sets forth notice of arrival requirements for aircraft entering the United States from a foreign area. Paragraph (c)(1)(ii) specifies that aircraft arriving from Cuba must follow the advance notice of arrival procedures set forth in § 122.154 in part 122, subpart O. Paragraph (c)(1)(iii) specifies that certain aircraft arriving from areas south of the United States (other than Cuba) must follow the notice of arrival procedures set forth in § 122.23 in part 122. As a result of removing subpart O, flights arriving from Cuba will now give advance notice of arrival in accordance with the other provisions in 19 CFR part 122. Accordingly, DHS is removing paragraph (c)(1)(ii) from § 122.31 and making other conforming amendments to paragraph (c)(1).

Section 122.42 of title 19 (19 CFR 122.42) sets forth certain aircraft entry requirements. Paragraph (d) provides that an aircraft of a scheduled airline which stops only for refueling at the first place or arrival in the United States shall not be required to enter provided it meets certain conditions, except for flights to Cuba (provided for in subpart O of this part). To conform with the removal of subpart O, DHS is removing this exception language from paragraph (d) of § 122.42.

Additional Requirements for Aircraft Traveling to or From Cuba

All aircraft entering/departing the United States from/to Cuba must be properly licensed or otherwise authorized to travel between the United States and Cuba. Several federal agencies administer the necessary authorizations, and it is the responsibility of the owner or person in command of the aircraft to ensure that the aircraft has the necessary authorization to travel.

OFAC administers the CACR, 31 CFR part 515, which prohibit, in relevant part, all persons subject to the jurisdiction of the United States from engaging in travel-related transactions involving Cuba unless authorized by OFAC. As mentioned before, air carriers are authorized to provide service to and from Cuba under a ''general license'' so long as the air carrier complies with the terms and conditions of the general license.

BIS administers the EAR, 15 CFR parts 730 through 774, which prohibit certain exports and re-exports to Cuba unless authorized by a license or license exception. As discussed above, flying an aircraft to Cuba constitutes an export or re-export under the EAR, but certain flights on a ''temporary sojourn'' qualify for a license exception. An aircraft that fails to qualify for the ''temporary sojourn'' license exception under 15 CFR 740.15 may require an individually validated license under the EAR in order to depart the United States for Cuba. Baggage and cargo onboard the aircraft may also require a license if it does not qualify for a license exception under the EAR.

Additionally, an aircraft traveling between the United States and Cuba may require a license from other federal agencies, as applicable, and must obtain economic and safety authorizations to provide air transportation service as an air carrier from the Office of the Secretary of Transportation and the Federal Aviation Administration. Air carriers and other commercial operators are required to adopt and implement the security requirements established by the Transportation Security Administration for individuals, property, and cargo aboard aircraft (*see* 49 CFR chapter XII, subchapter C (Civil Aviation Security)).

Inapplicability of Notice and Delayed Effective Date Requirements, the Regulatory Flexibility Act, and Executive Order 12866

The Administrative Procedure Act (APA) requirements in 5 U.S.C. 553 govern agency rulemaking procedures. The APA generally requires that an agency provide prior notice and an opportunity for public comment before issuing a final rule.[17] The APA also requires that a final rule have a 30-day delayed effective date.[18] The APA provides a full exemption from the requirements of section 553 for rules involving a foreign affairs function of the United States.[19] The APA also provides an exception from the prior notice and public comment requirement and the delayed effective date requirement if the agency for good cause finds that such procedures are impracticable, unnecessary or contrary to the public interest.[20]

This interim final rule is excluded from the rulemaking provisions of 5 U.S.C. 553 as a foreign affairs function of the United States because it concerns international flights between the United States and Cuba, consistent with U.S. foreign policy goals. These amendments to clarify and simplify the regulations regarding air travel between the United States and Cuba are consistent with the President's continued effort to normalize relations between the two countries.

Accordingly, DHS is not required to provide public notice and an opportunity to comment before implementing the requirements under this interim final rule.

In addition, with respect to the removal of the regulations in 19 CFR part 122, subpart O, that are duplicative of the entry and clearance requirements in the rest of part 122, DHS finds that good cause exists for dispensing with the prior notice and comment procedure as unnecessary under 5 U.S.C. 553(b)(B) and for dispensing with the requirement for a delayed effective date under 5 U.S.C. 553(d)(3). The Department, however, is interested in public comments on this interim final rule and, therefore, is providing the public with the opportunity to comment without delaying implementation of this rule. All comments received will become a matter of the public record.

In addition, DHS does not consider this rule to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. Rules involving the foreign affairs function of the United States are exempt from the requirements of Executive Order 12866. As discussed above, DHS is of the opinion that clarifying and simplifying the regulations regarding restrictions on travel between the United States and Cuba is a foreign affairs function of the United States Government and as such, this rule is exempt from the requirements of Executive Order 12866. Finally, because DHS is of the opinion that this rule is not subject to the requirements of 5 U.S.C. 553, DHS does not consider this rule to be subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Signing Authority

This interim final rule is being issued in accordance with 8 CFR 2.1 and 19 CFR 0.2(a). Accordingly, this interim final rule is signed by the Secretary of Homeland Security.

[17] 5 U.S.C. 553(b) and (c).

[18] 5 U.S.C. 553(d).

[19] 5 U.S.C. 553(a)(1).

[20] 5 U.S.C. 553(b)(B) and 553(d)(3).

List of Subjects

8 CFR Part 234

Air carriers, Aircraft, Airports, Aliens, Cuba.

19 CFR Part 122

Administrative practice and procedure, Air carriers, Aircraft, Airports, Alcohol and alcoholic beverages, Cigars and cigarettes, Cuba, Customs duties and inspection, Drug traffic control, Freight, Penalties, Reporting and recordkeeping requirements, Security measures.

Amendments to the Regulations

For the reason stated in the preamble, 8 CFR part 234 and 19 CFR part 122 are amended as set forth below.

8 CFR Chapter 1

PART 234—DESIGNATION OF PORTS OF ENTRY FOR ALIENS ARRIVING BY CIVIL AIRCRAFT

■ 1. The general authority for part 234 continues to read as follows:

Authority: 8 U.S.C. 1103, 1221, 1229; 8 CFR part 2.

§ 234.2 [Amended]

■ 2. Amend § 234.2 by removing the last sentence of paragraph (a).

19 CFR Chapter 1

PART 122—AIR COMMERCE REGULATIONS

■ 3. The authority citation for part 122 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a, 2071 note.

* * * * *

§ 122.31 [Amended]

■ 4. Amend § 122.31 as follows:

■ a. Remove and reserve paragraph (c)(1)(ii);

■ b. In paragraph (c)(1)(iii), remove the text ''(other than Cuba)''; and

■ c. In paragraph (c)(1)(iv), remove the text '', (c)(1)(ii)''.

■ 5. Amend § 122.42 by revising the introductory sentence of paragraph (d) to read as follows:

§ 122.42 Aircraft entry.

* * * * *

(d) *Exception to entry requirement.* An aircraft of a scheduled airline which stops only for refueling at the first place of arrival in the United States will not be required to enter provided:

* * * * *

Subpart O [Removed and Reserved]

■ 6. Remove and reserve subpart O, consisting of §§ 122.151 through 122.158.

Jeh Johnson,

Secretary.

[FR Doc. 2016–06371 Filed 3–18–16; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 160229152–6152–01]

RIN 0694–AG87

Addition of Certain Persons and Modification to Entries on the Entity List; and Removal of Certain Persons From the Entity List

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Export Administration Regulations (EAR) by adding forty-four persons under forty-nine entries to the Entity List. The forty-four persons who are added to the Entity List have been determined by the U.S. Government to be acting contrary to the national security or foreign policy interests of the United States. These forty-four persons will be listed on the Entity List under the destinations of China, Germany, Hong Kong, India, Iran, Malaysia, the Netherlands, Singapore, Switzerland, and the United Arab Emirates (U.A.E.).

This final rule also removes five entities from the Entity List under the destinations of Ukraine and the U.A.E., as the result of requests for removal received by BIS, a review of information provided in the removal requests in accordance with the procedure for requesting removal or modification of an Entity List entity and further review conducted by the End-User Review Committee (ERC).

Finally, this final rule modifies two existing entries in the Entity List, both under the destination of China. These entries are being modified to reflect additional aliases and addresses for these persons. BIS implements this rule to protect U.S. national security or foreign policy interests and to ensure entries on the Entity List are accurate and up-to-date.

DATES: This rule is effective March 21, 2016.

FOR FURTHER INFORMATION CONTACT: Chair, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–5991, Fax: (202) 482–3911, Email: *ERC@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Entity List (Supplement No. 4 to part 744) identifies entities and other persons reasonably believed to be involved, or to pose a significant risk of being or becoming involved, in activities contrary to the national security or foreign policy interests of the United States. The EAR imposes additional license requirements on, and limits the availability of most license exceptions for, exports, reexports, and transfers (in-country) to those listed. The ''license review policy'' for each listed entity or other person is identified in the License Review Policy column on the Entity List and the impact on the availability of license exceptions is described in the **Federal Register** notice adding entities or other persons to the Entity List. BIS places entities and other persons on the Entity List pursuant to sections of part 744 (Control Policy: End-User and End-Use Based) and part 746 (Embargoes and Other Special Controls) of the EAR.

The ERC, composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, where appropriate, the Treasury, makes all decisions regarding additions to, removals from, or other modifications to the Entity List. The ERC makes all decisions to add an entry to the Entity List by majority vote and all decisions to remove or modify an entry by unanimous vote.

ERC Entity List Decisions

Additions to the Entity List

This rule implements the decision of the ERC to add forty-four persons under forty-nine entries to the Entity List. These forty-four persons are being added on the basis of § 744.11 (License requirements that apply to entities acting contrary to the national security or foreign policy interests of the United States) of the EAR. The forty-nine entries added to the entity list consist of eight entries in China, four entries in Germany, three entries in Hong Kong, one entry in India, two entries in Iran, five entries in Malaysia, two entries in the Netherlands, one entry in Singapore, one entry in Switzerland and twenty-two entries in the U.A.E. There are forty-nine entries for the forty-four persons because four persons are listed in multiple locations, resulting in five additional entries.

The ERC reviewed § 744.11(b) (Criteria for revising the Entity List) in making the determination to add these forty-four persons under forty-nine entries to the Entity List. Under that paragraph, persons for whom there is reasonable cause to believe, based on specific and articulable facts, that they have been involved, are involved, or pose a significant risk of being or becoming involved in, activities that are contrary to the national security or foreign policy interests of the United States and those acting on behalf of such persons may be added to the Entity List. Paragraphs (b)(1) through (5) of § 744.11 include an illustrative list of activities that could be contrary to the national security or foreign policy interests of the United States. Pursuant to § 744.11 of the EAR, the ERC determined that forty-four persons, located in the destinations of China, Germany, Hong Kong, India, Iran, Malaysia, Netherlands, Singapore, Switzerland, and the U.A.E., be added to the Entity List for actions contrary to the national security or foreign policy interests of the United States.

Specifically, the ERC determined that Frank Genin, Skylinks FZC, All Industrial International, Beaumont Trading AG, Behover General Trading/ Information Technologies, Complete Freight Solutions, Cybernet MEA, Innovative Technology Solutions, Joinus Freight Systems HK Ltd, Syarikat Penghantaran TWW Sdn Bhd, Teofila Logistics, Amanda Sng, Beverly Apigo, Rose Ann Apigo, Hamideh Ghayour, Kapil Raj Arora, Mehdi Jafariyeh, T.V. Joe Ouseppachan, and Donna Lynn Ocampo be added to the Entity List on the basis of their attempts to procure items, including U.S.-origin items, for activities contrary to the national security and foreign policy interests of the United States. Specifically, Frank Genin used the aforementioned companies and employees thereof to supply U.S.-origin items to an Iranian party associated with the Iranian defense industry. Additionally, two Skylinks managing directors, Seyed Amin Ghorashi Sarvestani and Peyman Manoucher Azimi were convicted in the United States in 2013 for International Emergency Economic Powers Act (IEEPA) violations carried out through Skylinks and its parent company, Innovative Technology Systems (ITS). Three of these entities (Beaumont Trading AG, Frank Genin, and Skylinks FZC) are located in multiple locations, resulting in a total of twenty-three entries added under the destinations of Hong Kong, India, Malaysia, the Netherlands, Singapore, Switzerland, and the U.A.E.

The ERC determined that Industrio GmbH, Peter Duenker, Martin Hess and Wilhelm ''Bill'' Holler attempted to procure items, including U.S.-origin items, for activities contrary to the national security and foreign policy interests of the United States. Specifically, Industrio GmbH and its associates have been involved in supplying U.S.-origin items to an Iranian party associated with the Iranian defense industry. The Iranian party's customers include companies designated by the Department of the Treasury as Specially Designated Nationals (SDNs).

Pursuant to § 744.11(b) of the EAR, the ERC determined that the conduct of these twenty-three entities raises sufficient concern that prior review of exports, reexports or transfers (in-country) of items subject to the EAR involving these persons, and the possible imposition of license conditions or license denials on shipments to the persons, will enhance BIS's ability to prevent violations of the EAR.

In addition, the ERC determined that that there is reasonable cause to believe, based on specific and articulable facts, that Mahmood Akbari; Reza Hajigholamali; Patco Group Ltd.; Managed Systems and Services (MSAS)(FZC); and TGO General Trading LLC were involved in the illegal diversion of U.S.-origin items to Iran via the U.A.E. One of these persons (Reza Hajigholamali) is located in both Iran and the U.A.E., resulting in six entries added under the locations of Iran and the U.A.E. The ERC also determined that for eight entities located in China—Jereh International; Jinan Tongbaolai Oilfield Equipment Co. Ltd.; Yantai Jereh Oilfield Services Group Co., Ltd.; Chen Qu; Edward Fan; Gala Wang; Sharon Yang; and Tan Wei—there is reasonable cause to believe, based on specific and articulable facts, that they unlawfully diverted U.S.-origin oilfield equipment to Iran without the required Department of the Treasury, Office of Foreign Assets Control (OFAC) licenses, actions that violate the EAR.

Pursuant to § 744.11(b)(2) of the EAR, the ERC determined that the conduct of these thirteen entities raises sufficient concern that prior review of exports, reexports or transfers (in-country) of items subject to the EAR involving these persons, and the possible imposition of license conditions or license denials on shipments to the persons, will enhance BIS's ability to prevent violations of the EAR. Therefore, these thirteen entities are being added to the Entity List.

The ERC determined that four entities, EEZ SDN, Mohamad Sadeghi, Mohsen Torabi, and Muhamad Fazil bin Khalid, be added to the Entity List under Malaysia. These persons are involved, or have previously been involved, in an illicit procurement scheme to divert items subject to the EAR to prohibited end uses and end users in Iran. The actions of these persons have supported persons engaged in acts of terror and enhanced the military capability of Iran, which has been designated by the Secretary of State as a State Sponsor of Terrorism.

Pursuant to § 744.11(b)(1), (2) and (5) of the EAR, the ERC determined that the conduct of these four entities raises sufficient concern that prior review of exports, reexports or transfers (in-country) of items subject to the EAR involving these persons, and the possible imposition of license conditions or license denials on shipments to the persons, will enhance BIS's ability to prevent violations of the EAR.

Finally, the ERC determined that four entities located in the U.A.E., AdCom Systems, Advanced Targeting Systems Company, LLC (ATS), Gulf Eagle Contracting (GEC), and Gulf Eagle Industrial and Metal Profiles (GEIMP), be added to the Entity List. AdCom Systems and its three affiliated companies are seeking to export Missile Technology Control Regime (MTCR) Category I unmanned aerial vehicles (UAVs) to non-MTCR member countries. All Category I systems are inherently capable of delivering weapons of mass destruction, and the proliferation of such systems by AdCom and its affiliates undermines the international missile nonproliferation objectives that the United States relies on to promote its national security and foreign policy interests.

Pursuant to § 744.11(b) of the EAR, the ERC determined that the conduct of these four entities raises sufficient concern that prior review of exports, reexports or transfers (in-country) of items subject to the EAR involving these persons, and the possible imposition of license conditions or license denials on shipments to the persons, will enhance BIS's ability to prevent violations of the EAR.

For the forty-four persons under forty-nine entries added to the Entity List, BIS imposes a license requirement for all items subject to the EAR and a license review policy of presumption of denial. The license requirements apply to any transaction in which items are to be exported, reexported, or transferred (in-country) to any of the persons or in which such persons act as purchaser, intermediate consignee, ultimate consignee, or end-user. In addition, no

license exceptions are available for exports, reexports, or transfers (in-country) to the persons being added to the Entity List in this rule. The acronym ''a.k.a.'' (also known as) is used in entries on the Entity List to help exporters, reexporters and transferors to better identify listed persons on the Entity List.

This final rule adds the following forty-four persons under forty-nine entries to the Entity List:

China

(1) *Chen Qu,* a.k.a., the following one alias: Chen Choo, No. 5, Jereh Road, Laishan District, Yantai Shandong Province, China;

(2) *Edward Fan,* No. 5, Jereh Road, Laishan District, Yantai Shandong Province, China;

(3) *Gala Wang,* Room 2506, Hengchang Building, No. 288, Hing Si Road, Jinan City, Shandong, China;

(4) *Jereh International,* No. 5, Jereh Road, Laishan District, Yantai Shandong Province, China;

(5) *Jinan Tongbaolai Oilfield Equipment Co. Ltd.,* Room 2506, Hengchang Building, No. 288, Hing Si Road, Jinan City, Shandong, China;

(6) *Sharon Yang,* No. 5, Jereh Road, Laishan District, Yantai Shandong Province, China;

(7) *Tan Wei,* a.k.a., the following one alias: Terry Tan. No. 5, Jereh Road, Laishan District, Yantai Shandong Province, China; *and*

(8) *Yantai Jereh Oilfield Services Group Co., Ltd.,* No. 5, Jereh Road, Laishan District, Yantai Shandong Province, China.

Germany

(1) *Industrio GmbH,* Dreichlinger Street 79, Neumarkt, 92318 Germany;

(2) *Martin Hess,* Dreichlinger Street 79, Neumarkt, 92318 Germany;

(3) *Peter Duenker,* a.k.a., the following one alias: Peter Dunker, Dreichlinger Street 79, Neumarkt, 92318 Germany; *and*

(4) *Wilhelm ''Bill'' Holler,* Dreichlinger Street 79, Neumarkt, 92318 Germany.

Hong Kong

(1) *Frank Genin,* a.k.a., the following one alias: Franck Genin, RM 1905, 19/F, Nam Wo Hong Bldg., 148 Wing Lok Street, Sheung Wang, Hong Kong (See alternate addresses under U.A.E.);

(2) *Joinus Freight Systems HK Ltd,* a.k.a., the following one alias: JFS Global Logistics, Unit 07–07, 25F, Tower B, Regent Centre, 63 Wo Yi Hop Road, Kwai Chung, N.T. Hong Kong; *and* Suite 801–803, Park Sun Bldg, 97–107 Wo Yi Hop Road, Kwai Chung, Hong Kong; *and*

(3) *Skylinks FZC,* a.k.a., the following two aliases: Skylinks; *and* Skylinks Satellite Comm., RM 1905, 19/F, Nam Wo Hong Bldg., 148 Wing Lok Street, Sheung Wang, Hong Kong (See alternate addresses under U.A.E.).

India

(1) *Beaumont Trading AG,* a.k.a., the following one alias: Beaumont Tradex India, 412 World Trade Center, Conaught Place, New Delhi—110001, India; *and* 4th Floor Statesman House Building, Barakhamba Road, New Delhi 11001, India; *and* Express Towers, 1st Floor, Express Building, 9–10 Bahadurshah Zafar Marg, New Delhi-12, India (See alternate addresses under Switzerland and U.A.E.).

Iran

(1) *Mahmood Akbari,* a.k.a., the following alias: John Wassermann, No.34, Arash Blvd., Farid Afshar St., Zafar Ave., Tehran, Iran; *and*

(2) *Reza Hajigholamali,* No.34, Arash Blvd., Farid Afshar St., Zafar Ave., Tehran, Iran (See alternate addresses under U.A.E.).

Malaysia

(1) *EEZ SDN,* a.k.a., the following one alias: Elecronic Engineering Zone SDN BHD, 33–88 Menara Keck Seng, 203 Jalan Bukit Bintang, Kuala Lumpur, Malaysia; *and* A–17–8 Tower A, Menara Atlas, Plaza Pantai 5, Jalan 4/83A, off Jalan Pantai Baru, Kuala Lumpur, Malaysia; *and* B–3A–7 Empire Subang, Jalan SS16/1, Subang Jaya, Malaysia;

(2) *Mohamad Sadeghi,* 33–88 Menara Keck Seng, 203 Jalan Bukit Bintang, Kuala Lumpur, Malaysia; *and* A–17–8 Tower A, Menara Atlas, Plaza Pantai 5, Jalan 4/83A, off Jalan Pantai Baru, Kuala Lumpur, Malaysia;

(3) *Mohsen Torabi,* a.k.a., the following one alias: Moha Torab, 2nd Floor, Jalan 9A, Berangan, Kuala Lumpur, Malaysia; *and* 33–88 Menara Keck Seng, 203 Jalan Bukit Bintang, Kuala Lumpur, Malaysia; *and* A–17–8 Tower A, Menara Atlas, Plaza Pantai 5, Jalan 4/83A, off Jalan Pantai Baru, Kuala Lumpur, Malaysia;

(4) *Muhamad Fazil bin Khalid,* 33–88 Menara Keck Seng, 203 Jalan Bukit Bintang, Kuala Lumpur, Malaysia; *and* A–17–8 Tower A, Menara Atlas, Plaza Pantai 5, Jalan 4/83A, off Jalan Pantai Baru, Kuala Lumpur, Malaysia; *and* No. 2 Jalan 29C, Selayang Baru, Batu Caves, Selangor, Malaysia; *and*

(5) *Syarikat Penghantaran TWW Sdn Bhd,* Lot C–7, Block C Mas Advance Cargo Centre KLIA Cargo Village Southern Support Zone 64000, Sepang Selangor Darul Ehsan, Malaysia.

Netherlands

(1) *All Industrial International,* Knobbelswaansingel 19, 2496 LN, The Hague, Netherlands; *and* Breukelensestraat 44, 2574 RC, The Hague, Netherlands; *and*

(2) *Kapil Raj Arora,* Breukelensestraat 44, 2574 RC, The Hague, Netherlands; *and* Knobbelswaansingel 19, 2496 LN, The Hague, Netherlands.

Singapore

(1) *Amanda Sng,* 211 Henderson Road, #13–02 Henderson Industrial Park, Singapore 159552.

Switzerland

(1) *Beaumont Trading AG,* a.k.a., the following one alias: Beaumont Tradex India, Haldenstrasse 5, Baar (Zug Canton), CH 6342 Switzerland (See alternate addresses in India and the U.A.E.).

United Arab Emirates

(1) *AdCom Systems,* Industrial City of Abu Dhabi—ICAD, Abu Dhabi, U.A.E.;

(2) *Advanced Targeting Systems Company, LLC (ATS),* P.O. Box 34237, High Specialized Economical Zone M41, 103A13, Al Mussafah, Abu Dhabi, U.A.E.;

(3) *Beaumont Trading AG,* a.k.a., the following one alias: Beaumont Tradex India, DMCC Business Center, 49 Almas Tower—JLT Dubai, U.A.E. (See alternate addresses in India and Switzerland);

(4) *Behover General Trading/Information Technologies,* a.k.a., the following one alias: DBA Behover Information Technologies, P.O. Box 25756, Atrium Center Building, Burdubai, Dubai, U.A.E.; *and* Unit M3&4, Atrium Centre, Bank Street Dubai, U.A.E.; *and* P.O. Box 19741, Dubai, U.A.E.; *and* Unit 2009, Prism Tower, Business Bay, Dubai, U.A.E.; *and* P.O. Box 115904, Dubai, U.A.E.;

(5) *Beverly Apigo,* P.O. Box 28515, Dubai, U.A.E.; *and* 202 B Sama Tower Sheikh Tayed Road #3 Dubai, U.A.E. P.O. Box 16048; *and* BC2–414, RAK Free Trade Zone, P.O. Box 16048, Ras Al Khaimah, U.A.E.; *and* G1/RAK Free Trade Zone RAK—U.A.E.; *and* G–17 Sheikh Tayed Road #3, Ras Al Khaimah Free Trade Zone, Dubai, U.A.E.; *and* P.O. Box 10559 Ras Al Khaimah, U.A.E.; *and* P.O. Box 25344 Bur Dubai, Dubai, U.A.E.; *and* Suite 608 Atrium Center, Bank St., Bur Dubai, Dubai, U.A.E., P.O. Box 16048; *and* Suite 706 Atrium Center Bank Street, Bur Dubai, Dubai U.A.E.;

(6) *Complete Freight Solutions,* 704 The Atrium Ctr, Khalid Bin, Dubai, U.A.E.; *and* 1st Floor, Office No. 114, Yousef Al Otaiba Bldg, Above Emirates Islamic Bank Office, 2nd December

Street (Old Al Dyafah Street), P.O. Box No. 29687, Satwa, Dubai, U.A.E.;

(7) *Cybernet MEA,* 202 B Sama Tower Sheikh Tayed Road #3, Dubai, U.A.E., P.O. Box 16048; *and* BC2–414, RAK Free Trade Zone, P.O. Box 16048 Ras Al Khaimah, U.A.E.; *and* G1/RAK Free Trade Zone RAK—U.A.E.; *and* G–17 Sheikh Tayed Road #3, Ras Al Khaimah Free Trade Zone, Dubai, U.A.E.; *and* No. 608 Atrium Center Bank Street, Dubai, U.A.E.; *and* P.O. Box 10559 Ras Al Khaimah, U.A.E.; *and* P.O. Box 116911 Dubai, U.A.E.; *and* P.O. Box 25344 Bur Dubai, Dubai, U.A.E.; *and* Suite 608 Atrium Center Bank Street, Bur Dubai, Dubai, U.A.E.; *and* Suite 706 Atrium Center Bank Street, Bur Dubai, Dubai U.A.E.;

(8) *Donna Lynn Ocampo,* P.O. Box 28515, Dubai, U.A.E.; *and* 202 B Sama Tower Sheikh Tayed Road #3 Dubai, U.A.E., P.O. Box 16048; *and* BC2–414, RAK Free Trade Zone P.O. Box 16048 Ras Al Khaimah, U.A.E.; *and* G1/RAK Free Trade Zone RAK—U.A.E.; *and* G–17 Sheikh Tayed Road #3 Ras Al Khaimah Free Trade Zone Dubai, U.A.E.; *and* P.O. Box 10559 Ras Al Khaimah, U.A.E.; *and* P.O. Box 25344 Bur Dubai, Dubai, U.A.E.; *and* Suite 608 Atrium Center, Bank St., Bur Dubai, Dubai, U.A.E. P.O. Box 16048; *and* Suite 706 Atrium Center Bank Street Bur Dubai, Dubai, U.A.E.;

(9) *Frank Genin,* a.k.a., the following one alias: Franck Genin, Villa No. 6 AL WASL RD, 332/45b Jumeira 1, Dubai, Dubai 25344, U.A.E.; *and* Suite 608 Atrium Center, Bank St., Bur Dubai, Dubai, U.A.E., P.O. Box 16048; *and* Suite 706 Atrium Center Bank Street Bur Dubai, Dubai U.A.E.; *and* P.O. Box 10559 Ras Al Khaimah, U.A.E.; *and* P.O. Box 25344 Bur Dubai, Dubai, U.A.E.; *and* 2nd Floor, #202 Sheik Zayed Road Dubai POB 25344 U.A.E.; *and* P.O. Box 28515, Dubai, U.A.E.; *and* 202 B Sama Tower Sheikh Tayed Road #3 Dubai, U.A.E. P.O.Box 16048; *and* BC2–414, RAK Free Trade Zone P.O. Box 16048 Ras Al Khaimah, U.A.E.; *and* G1/RAK Free Trade Zone RAK—U.A.E.; *and* G–17 Sheikh Tayed Road #3 Ras Al Khaimah Free Trade Zone, Dubai, U.A.E. (See alternate address under Hong Kong);

(10) *Gulf Eagle Contracting (GEC),* P.O. Box 31814, Al Dhafra Road, Abu Dhabi, U.A.E.;

(11) *Gulf Eagle Industrial and Metal Profiles (GEIMP),* P.O. Box 31814, Al Mussafah Industrial City, New Airport Road, Abu Dhabi, U.A.E.;

(12) *Hamideh Ghayour,* P.O. Box 155904, Dubai, U.A.E.; *and* Unit M3&4, Atrium Centre, Bank Street Dubai, U.A.E.;

(13) *Innovative Technology Systems (ITS),* 2nd Floor, #202 Sheik Zayed Road Dubai, POB 25344, U.A.E.; *and* Suite 608 Atrium Center, Bank Street, Bur Dubai, Dubai, U.A.E.; *and* Suite 706 Atrium Center Bank Street, Bur Dubai, Dubai, U.A.E.;

(14) *Managed Systems and Services (MSAS)(FZC),* No. A3089 Seif Sharjah U.A.E.; *and* SAIF Zone 250 M2 Warehouse P60–109, PO Box 122550, Sharjah, U.A.E.;

(15) *Mehdi Jafariyeh,* a.k.a., the following one alias: Mehdi Jeffery, P.O. Box 28515, Dubai, U.A.E.; *and* 202 B Sama Tower Sheikh Tayed Road #3 Dubai, U.A.E., P.O. Box 16048; *and* BC2–414, RAK Free Trade Zone P.O. Box 16048 Ras Al Khaimah, U.A.E.; *and* G 1/RAK Free Trade Zone RAK—U.A.E.; *and* G–17 Sheikh Tayed Road #3 Ras Al Khaimah Free Trade Zone, Dubai, U.A.E. *and* P.O. Box 10559 Ras Al Khaimah, U.A.E.; *and* P.O. Box 25344 Bur Dubai, Dubai, U.A.E.; *and* Suite 608 Atrium Center, Bank St., Bur Dubai, Dubai, U.A.E., P.O. Box 16048; *and* Suite 706 Atrium Center Bank Street Bur Dubai, Dubai, U.A.E.;

(16) *Patco Group Ltd.,* P.O. Box 20470, Ajman, U.A.E.; *and* Ajman Free Zone Bldg., 48-Block-C Meena Road near Ajman Sea Port, Ajman, U.A.E.;

(17) *Reza Hajigholamali,* PO Box 20470, Ajman, U.A.E.; *and* Ajman Free Zone Bldg., 48-Block-C Meena Road near Ajman Sea Port, Ajman, U.A.E. (See alternate address under Iran);

(18) *Rose Ann Apigo,* P.O. Box 28515, Dubai, U.A.E.; *and* 202 B Sama Tower Sheikh Tayed Road #3 Dubai, U.A.E., P.O. Box 16048; *and* BC2–414, RAK Free Trade Zone P.O. Box 16048 Ras Al Khaimah, U.A.E.; *and* G1/RAK Free Trade Zone RAK—U.A.E.; *and* G–17 Sheikh Tayed Road #3 Ras Al Khaimah Free Trade Zone, Dubai, U.A.E.; *and* P.O. Box 10559 Ras Al Khaimah, U.A.E.; *and* P.O. Box 25344 Bur Dubai, Dubai, U.A.E.; *and* Suite 608 Atrium Center, Bank St., Bur Dubai, Dubai, U.A.E., P.O. Box 16048; *and* Suite 706 Atrium Center Bank Street, Bur Dubai, Dubai U.A.E.;

(19) *Skylinks FZC,* a.k.a., the following two aliases: Skylinks; *and* Skylinks Satellite Comm., P.O. Box 28515, Dubai, U.A.E.; *and* 202 B Sama Tower Sheikh Tayed Road #3 Dubai, U.A.E., P.O. Box 16048; *and* BC2–414, RAK Free Trade Zone P.O. Box 16048 Ras Al Khaimah, U.A.E.; *and* G1/RAK Free Trade Zone RAK—U.A.E.; *and* G–17 Sheikh Tayed Road #3 Ras Al Khaimah Free Trade Zone, Dubai, U.A.E.; *and* P.O. Box 10559 Ras Al Khaimah, U.A.E.; *and* P.O. Box 25344 Bur Dubai, Dubai, U.A.E.; *and* Suite 608 Atrium Center, Bank St., Bur Dubai, Dubai, U.A.E., P.O. Box 16048; *and* Suite 706 Atrium Center Bank Street, Bur Dubai, Dubai U.A.E. 3 (See alternate address under Hong Kong);

(20) *T.V. Joe Ouseppachan,* Office 228, Al Aatar Shopping Mall, P.O. Box 115824, Karama, Dubai, U.A.E.;

(21) *Teofila Logistics,* Office 228, Al Aatar Shopping Mall, P.O. Box 115824, Karama, Dubai, U.A.E.; *and*

(22) *TGO General Trading LLC,* a.k.a., the following one alias: Three Green Orbit, 19th Floor Festival Tower, Festival City, PO Box 36605, Dubai, U.A.E.

Removals From the Entity List

This rule implements decisions of the ERC to remove the following five entries from the entity list based on removal requests received by the BIS: Ukrspetsexport, located in the Ukraine; and Zener One Net, Zener Marine, Ivan Desouza, and Girish Purushothama, all located in the U.A.E.

Pursuant to § 744.11(b)(5) of the EAR, Ukrspetsexport was found to have exported military equipment to a country on the State Department's State Sponsors of Terrorism List and was subsequently added to the Entity List on March 28, 2013 (78 FR 18811). The ERC's decision to remove this entry from the Entity List was based on information received by the BIS and further review conducted by the ERC.

Zener One Net, Zener Marine, Ivan Desouza, and Girish Purushotham were added to the Entity List on June 5, 2014 (79 FR 32441), pursuant to § 744.11(b)(1) of the EAR. The removal of Zener One Net, Zener Marine, Ivan Desouza, and Girish Purushotham is based on the information provided in their appeal request, information provided by the companies and persons in cooperative exchanges, and further reviews conducted by the ERC.

In accordance with § 744.16(c), the Deputy Assistant Secretary for Export Administration has sent written notifications informing these persons of the ERC's decisions to remove them from the Entity List.

This final rule implements the decision to remove the following five entities located in the Ukraine and the U.A.E. from the Entity List.

Ukraine

(1) *Ukrspetsexport,* 36 Degtiarivska Blvd., Ukraine 04119 Kyiv.

United Arab Emirates

(1) *Girish Purushothama,* P.O. Box 389, Dubai, U.A.E.; *and* P.O. Box 3905, Abu Dhabi, U.A.E.; *and* Plot S20206, Dubai, U.A.E.;

(2) *Ivan Desouza,* a.k.a., the following one alias: Ivan D'Souza, P.O. Box 389,

Dubai, U.A.E.; *and* P.O. Box 3905, Abu Dhabi, U.A.E.; *and* Plot S20206, Dubai, U.A.E.;

(3) *Zener Marine,* P.O. Box 389, Dubai, U.A.E.; *and* Al Quoz Warehouse, Dubai, U.A.E.; *and*

(4) *Zener One Net,* P.O. Box 389, Dubai, U.A.E.

The removal of the five persons referenced above, which was approved by the ERC, eliminates the existing license requirements in Supplement No. 4 to part 744 for exports, reexports and transfers (in-country) to these entities. However, the removal of these five persons from the Entity List does not relieve persons of other obligations under part 744 of the EAR or under other parts of the EAR. Neither the removal of an entity from the Entity List nor the removal of Entity List-based license requirements relieves persons of their obligations under General Prohibition 5 in § 736.2(b)(5) of the EAR which provides that, ''you may not, without a license, knowingly export or reexport any item subject to the EAR to an end-user or end-use that is prohibited by part 744 of the EAR.'' Additionally, these removals do not relieve persons of their obligation to apply for export, reexport or in-country transfer licenses required by other provisions of the EAR. BIS strongly urges the use of Supplement No. 3 to part 732 of the EAR, ''BIS's 'Know Your Customer' Guidance and Red Flags,'' when persons are involved in transactions that are subject to the EAR.

Modifications to the Entity List

This final rule implements the decision of the ERC to modify two existing entries on the Entity List, under the destination of China. The ERC made determinations to make the following modifications: Add one alias and three additional addresses to the entry of Chengdu GaStone Technology Co., Ltd. (CGTC) and add four aliases and nine additional addresses to the entry of PRC Lode Technology Company.

This final rule makes the following modifications to two entries on the Entity list:

China

(1) *Chengdu GaStone Technology Co., Ltd. (CGTC),* a.k.a., the following one alias: Chengdu Jiashi Technology Co., 31F, A Tower, Yanlord Square, No. 1, Section 2, Renmind South Road, Chengdu China; *and* Internet of Things Industrial Park Economic Development District Xinan Hangkonggang (Southwest Airport), Shuangliu County, Chengdu; *and* 29th Floor, Yanlord Landmark, No. 1 Renmin South Road Section 2, Chengdu; *and* 29/F Yanlord Landmark Tower A, Chengdu, China; *and*

(2) *PRC Lode Technology Company,* a.k.a., the following the following four aliases: Lode Technology Company; Beijing Lode Technology Company, Ltd.; Beijing Nuodian Keji Youxian Gongsi; *and* Beijing Nuodian Technology. Room 8306 Kelun Building, 12A Guanghua Road, Chaoyang, Beijing 100020, China; *and* Room 801, Unit 1, Building 8 Caiman Street, Chaoyang Road, Beijing 100025, China; *and* Building 1–1, No. 67 Caiman Str., Chaoyang Road, Beijing 100123, China; *and* Room A407 Kelun Building, 12A Guanghua Road, Chaoyang, Beijing 100020, China; *and* Rm 602, 5/F, No. 106 NanHu Road, ChaoYang District, Beijing, China; *and* Suite 801, Unit 1, Building 8 Caiman Street Finance & Economics Center, Chaoyang Road, Chaoyang Disrict, Beijing; *and* Suite 306, Lianhua Building No. 159 Tianzhou Road, Xuhui District, Shanghai 200233; *and* Suite 6B3, Building 15, No. 300 Tianlin Road, Xuhui District, Shanghai 200233; *and* Suite 1901, Unit 1, Block 8, District E, Ziwei Garden City, Chang'an Technological Garden, Xi'an, 710119; *and* Suite 2002, Unit 4, Building 1 Zhongda Junyue Jinsha Phase 3 No. 15 Jinxiang Road, Qingyang District, Chengdu, 610031; and Suite 1506, Building 4, Dachengxiaoshi, No. 10 Qingjiang Zhong Road, Qingyang District, Chengdu, 610072; *and* Suite 904, Building A6, Shunfeng Emerald Garden, No. 168 Zhaofeng Road, Shijing, Baiyun District, Guangzhou, 510410; *and* No. 1263 Airport Road, Baiyun District, Guangzhou; *and* Suite 201, Tower A, Building 14, Qianxihe Garden Center, Nanchang, 330002 (See alternate addresses under Hong Kong).

Savings Clause

Shipments of items removed from eligibility for a License Exception or export or reexport without a license (NLR) as a result of this regulatory action that were en route aboard a carrier to a port of export or reexport, on March 21, 2016, pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export or reexport without a license (NLR).

Export Administration Act

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013) and as extended by the Notice of August 7, 2015, 80 FR 48233 (August 11, 2015), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222, as amended by Executive Order 13637.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 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, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under control number 0694–0088, Simplified Network Application Processing System, which includes, among other things, license applications and carries a burden estimate of 43.8 minutes for a manual or electronic submission.

Total burden hours associated with the PRA and OMB control number 0694–0088 are not expected to increase as a result of this rule. You may send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget (OMB), by email to *Jasmeet_K._Seehra@omb.eop.gov,* or by fax to (202) 395–7285.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. For the forty-four persons under forty-nine entries added to the Entity List in this final rule, the provisions of

the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment and a delay in effective date are inapplicable because this regulation involves a military or foreign affairs function of the United States. (See 5 U.S.C. 553(a)(1)). BIS implements this rule to protect U.S. national security or foreign policy interests by preventing items from being exported, reexported, or transferred (in country) to the persons being added to the Entity List. If this rule were delayed to allow for notice and comment and a delay in effective date, the entities being added to the Entity List by this action would continue to be able to receive items without a license and to conduct activities contrary to the national security or foreign policy interests of the United States. In addition, publishing a proposed rule would give these parties notice of the U.S. Government's intention to place them on the Entity List and would create an incentive for these persons to either accelerate receiving items subject to the EAR to conduct activities that are contrary to the national security or foreign policy interests of the United States, and/or to take steps to set up additional aliases, change addresses, and other measures to try to limit the impact of the listing on the Entity List once a final rule was published. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

5. For the five entries removed from the Entity List in this final rule, pursuant to the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), BIS finds good cause to waive requirements that this rule be subject to notice and the opportunity for public comment because it would be contrary to the public interest.

In determining whether to grant removal requests from the Entity List, a committee of U.S. Government agencies (the End-User Review Committee (ERC)) evaluates information about and commitments made by listed persons requesting removal from the Entity List, the nature and terms of which are set forth in 15 CFR part 744, Supplement No. 5, as noted in 15 CFR 744.16(b). The information, commitments, and criteria for this extensive review were all established through the notice of proposed rulemaking and public comment process (72 FR 31005 (June 5, 2007) (proposed rule), and 73 FR 49311 (August 21, 2008) (final rule)). These five removals have been made within the established regulatory framework of the Entity List. If the rule were to be delayed to allow for public comment, U.S. exporters may face unnecessary economic losses as they turn away potential sales to the other entity removed by this rule because the customer remained a listed person on the Entity List even after the ERC approved the removal pursuant to the rule published at 73 FR 49311 on August 21, 2008. By publishing without prior notice and comment, BIS allows the applicant to receive U.S. exports immediately since the applicant already has received approval by the ERC pursuant to 15 CFR part 744, Supplement No. 5, as noted in 15 CFR 744.16(b).

The removals from the Entity List granted by the ERC involve interagency deliberation and result from review of public and non-public sources, including sensitive law enforcement information and classified information, and the measurement of such information against the Entity List removal criteria. This information is extensively reviewed according to the criteria for evaluating removal requests from the Entity List, as set out in 15 CFR part 744, Supplement No. 5 and 15 CFR 744.16(b). For reasons of national security, BIS is not at liberty to provide to the public detailed information on which the ERC relied to make the decisions to remove these five entities. In addition, the information included in the removal request is information exchanged between the applicant and the ERC, which by law (section 12(c) of the Export Administration Act), BIS is restricted from sharing with the public. Moreover, removal requests from the Entity List contain confidential business information, which is necessary for the extensive review conducted by the U.S. Government in assessing such removal requests.

Section 553(d) of the APA generally provides that rules may not take effect earlier than thirty (30) days after they are published in the **Federal Register**. BIS finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(1) because this rule is a substantive rule which relieves a restriction. This rule's removal of five persons under five entries from the Entity List removes a requirement (the Entity-List-based license requirement and limitation on use of license exceptions) on these five persons being removed from the Entity List. The rule does not impose a requirement on any other person for these five removals from the Entity List.

No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required under the APA or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. As a result, no final regulatory flexibility analysis is required and none has been prepared.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730 through 774) is amended as follows:

PART 744—[AMENDED]

■ 1. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of August 7, 2015, 80 FR 48233 (August 11, 2015); Notice of September 18, 2015, 80 FR 57281 (September 22, 2015); Notice of November 12, 2015, 80 FR 70667 (November 13, 2015); Notice of January 20, 2016, 81 FR 3937 (January 22, 2016).

■ 2. Supplement No. 4 to part 744 is amended:

■ a. By adding under China, People's Republic of, in alphabetical order, eight Chinese entities;

■ b. By revising under China, People's Republic of, two Chinese entities, ''Chengdu GaStone Technology Co., Ltd. (CGTC)'' and ''PRC Lode Technology Company'';

■ c. By adding under Germany, in alphabetical order, four German entities;

■ d. By adding under Hong Kong, in alphabetical order, three Hong Kong entities;

■ e. By adding under India, in alphabetical order, one Indian entity;

■ f. By adding under Iran, in alphabetical order, two Iranian entities;

■ g. By adding under Malaysia, in alphabetical order, five Malaysian entities;

■ h. By adding in alphabetical order, an entry for the Netherlands and two Dutch entities;

■ i. By adding under Singapore, in alphabetical order, one Singaporean entity;

■ j. By adding under Switzerland, in alphabetical order, one Swiss entity;

■ k. By removing under the Ukraine, one Ukrainian entity, ''Ukrspetexport'';

■ l. By adding under United Arab Emirates, in alphabetical order, twenty-two Emirati entities; and

■ m. By removing under United Arab Emirates, four Emirati entities, ''Girish Purushothama''; ''Ivan Desouza''; ''Zener Marine''; and ''Zener One Net''.

The additions and revisions read as follows:

Supplement No. 4 to Part 744—Entity List

Country	Entity	License requirement	License review policy	**Federal Register** citation
*	* *	*	* *	*
China, People's Republic of.	* *	*	* *	*
	Chengdu GaStone Technology Co., Ltd. (CGTC), a.k.a., the following one alias: —Chengdu Jiashi Technology Co. 31F, A Tower, Yanlord Square, No. 1, Section 2, Renmind South Road, Chengdu China; *and* Internet of Things Industrial Park Economic Development District Xinan Hangkonggang (Southwest Airport), Shuangliu County, Chengdu; *and* 29th Floor, Yanlord Landmark, No. 1 Renmin South Road Section 2, Chengdu; *and* 29/F Yanlord Landmark Tower A, Chengdu, China.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR 44683, 8/1/14. 81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	* *	*	* *	*
	Chen Qu, a.k.a., the following one alias: —Chen Choo. No. 5, Jereh Road, Laishan District, Yantai Shandong Province, China.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	* *	*	* *	*
	Edward Fan, No. 5, Jereh Road, Laishan District, Yantai Shandong Province, China.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	* *	*	* *	*
	Gala Wang, Room 2506, Hengchang Building, No. 288, Hing Si Road, Jinan City, Shandong, China.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	* *	*	* *	*
	Jereh International, No. 5, Jereh Road, Laishan District, Yantai Shandong Province, China.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	* *	*	* *	*
	Jinan Tongbaolai Oilfield Equipment Co. Ltd, Room 2506, Hengchang Building, No. 288, Hing Si Road, Jinan City, Shandong, China.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	* *	*	* *	*
	PRC Lode Technology Company, a.k.a., the following four aliases: —Lode Technology Company; —Beijing Lode Technology Company, Ltd.; —Beijing Nuodian Keji Youxian Gongsi; *and* —Beijing Nuodian Technology.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR 44683, 8/1/14. 81 FR [INSERT FR PAGE NUMBER], 3/21/16.

Country	Entity	License requirement	License review policy	**Federal Register** citation
	Room 8306 Kelun Building, 12A Guanghua Road, Chaoyang, Beijing 100020, China; *and* Room 801, Unit 1, Building 8 Caiman Street, Chaoyang Road, Beijing 100025, China; *and* Building 1–1, No. 67 Caiman Str., Chaoyang Road, Beijing 100123, China; *and* Room A407 Kelun Building, 12A Guanghua Road, Chaoyang, Beijing 100020, China; *and* Rm 602, 5/F, No. 106 NanHu Road, ChaoYang District, Beijing, China; *and* Suite 801, Unit 1, Building 8 Caiman Street Finance & Economics Center, Chaoyang Road, Chaoyang District, Beijing; *and* Suite 306, Lianhua Building No. 159 Tianzhou Road, Xuhui District, Shanghai 200233; *and* Suite 6B3, Building 15, No. 300 Tianlin Road, Xuhui District, Shanghai 200233; *and* Suite 1901, Unit 1, Block 8, District E, Ziwei Garden City, Chang'an Technological Garden, Xi'an, 710119; *and* Suite 2002, Unit 4, Building 1 Zhongda Junyue Jinsha Phase 3 No. 15 Jinxiang Road, Qingyang District, Chengdu, 610031; Suite 1506, Building 4, Dachengxiaoshi, No. 10 Qingjiang Zhong Road, Qingyang District, Chengdu 610072; *and* Suite 904, Building A6, Shunfeng Emerald Garden, No. 168 Zhaofeng Road, Shijing, Baiyun District, Guangzhou, 510410; *and* No. 1263 Airport Road, Baiyun District, Guangzhou; *and* Suite 201, Tower A, Building 14, Qianxihe Garden Center, Nanchang, 330002 (See alternate addresses under Hong Kong).			
	* *	*	* *	*
	Sharon Yang, No. 5, Jereh Road, Laishan District, Yantai Shandong Province, China.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	* *	*	* *	*
	TanWei, a.k.a., the following one alias: —Terry Tan. No. 5, Jereh Road, Laishan District, Yantai Shandong Province, China.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	* *	*	* *	*
	Yantai Jereh Oilfield Services Group Co., Ltd., No. 5, Jereh Road, Laishan District, Yantai Shandong Province, China.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
*	* *	*	* *	*
Germany	* *	*	* *	*
	Industrio GmbH, Dreichlinger Street 79, Neumarkt, 92318 Germany.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	* *	*	* *	*
	Martin Hess, Dreichlinger Street 79, Neumarkt, 92318 Germany.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	* *	*	* *	*
	Peter Duenker a.k.a., the following alias: —Peter Dunker. Dreichlinger Street 79, Neumarkt, 92318 Germany.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	* *	*	* *	*

Country	Entity	License requirement	License review policy	Federal Register citation
	Wilhelm "Bill" Holler, Dreichlinger Street 79, Neumarkt, 92318 Germany.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
*	* *	*	*	*
Hong Kong	* *	*	*	*
	Frank Genin, a.k.a., the following one alias: —Franck Genin. RM 1905, 19/F, Nam Wo Hong Bldg., 148 Wing Lok Street, Sheung Wang, Hong Kong (See alternate addresses under U.A.E.).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	* *	*	*	*
	Joinus Freight Systems HK Ltd, a.k.a., the following one alias: —JFS Global Logistics. Unit 07–07, 25F, Tower B, Regent Centre, 63 Wo Yi Hop Road, Kwai Chung, N.T. Hong Kong; *and* Suite 801–803, Park Sun Bldg, 97–107 Wo Yi Hop Road, Kwai Chung, Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	* *	*	*	*
	Skylinks FZC, a.k.a., the following two aliases: —Skylinks; *and* —Skylinks Satellite Comm. RM 1905, 19/F, Nam Wo Hong Bldg., 148 Wing Lok Street, Sheung Wang, Hong Kong (See alternate addresses under U.A.E.).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
*	* *	*	*	*
India	* *	*	*	*
	Beaumont Trading AG, a.k.a., the following one alias: —Beaumont Tradex India. 412 World Trade Center, Conaught Place, New Delhi—110001, India; *and* 4th Floor Statesman House Building, Barakhamba Road, New Delhi 11001, India; *and* Express Towers, 1st Floor, Express Building, 9–10 Bahadurshah Zafar Marg, New Delhi-12, India (See alternate addresses under Switzerland and U.A.E.).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
*	* *	*	*	*
Iran	* *	*	*	*
	Mahmood Akbari, a.k.a., the following alias: —John Wassermann. No. 34, Arash Blvd., Farid Afshar St., Zafar Ave., Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	* *	*	*	*
	Reza Hajigholamali, No. 34, Arash Blvd., Farid Afshar St., Zafar Ave., Tehran, Iran (See alternate addresses under U.A.E.).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	* *	*	*	*
*	* *	*	*	*
Malaysia	* *	*	*	*

Country	Entity	License requirement	License review policy	**Federal Register** citation
	EEZ SDN, a.k.a., the following one alias: —Electronic Engineering Zone SDN BHD. 33–88 Menara Keck Seng, 203 Jalan Bukit Bintang, Kuala Lumpur, Malaysia; *and* A–17–8 Tower A, Menara Atlas, Plaza Pantai 5, Jalan 4/83A, off Jalan Pantai Baru, Kuala Lumpur, Malaysia; *and* B–3A–7 Empire Subang, Jalan SS16/1, Subang Jaya, Malaysia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
*	*	*	*	*
	Mohamad Sadeghi, 33–88 Menara Keck Seng, 203 Jalan Bukit Bintang, Kuala Lumpur, Malaysia; *and* A–17–8 Tower A, Menara Atlas, Plaza Pantai 5, Jalan 4/83A, off Jalan Pantai Baru, Kuala Lumpur, Malaysia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
*	*	*	*	*
	Mohsen Torabi, a.k.a., the following one alias: —Moha Torab. 2nd Floor, Jalan 9A, Berangan, Kuala Lumpur, Malaysia; *and* 33–88 Menara Keck Seng, 203 Jalan Bukit Bintang, Kuala Lumpur, Malaysia; *and* A–17–8 Tower A, Menara Atlas, Plaza Pantai 5, Jalan 4/83A, off Jalan Pantai Baru, Kuala Lumpur, Malaysia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
*	*	*	*	*
	Muhamad Fazil bin Khalid, 33–88 Menara Keck Seng, 203 Jalan Bukit Bintang, Kuala Lumpur, Malaysia; *and* A–17–8 Tower A, Menara Atlas, Plaza Pantai 5, Jalan 4/83A, off Jalan Pantai Baru, Kuala Lumpur, Malaysia; *and* No. 2 Jalan 29C, Selayang Baru, Batu Caves, Selangor, Malaysia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
*	*	*	*	*
	Syarikat Penghantaran TWW Sdn Bhd, Lot C–7, Block C Mas Advance Cargo Centre KLIA Cargo Village Southern Support Zone 64000, Sepang Selangor Darul Ehsan, Malaysia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE], 3/21/16.
*	*	*	*	*
Netherlands	All Industrial International, Knobbelswaansingel 19, 2496 LN, The Hague, Netherlands; *and* Breukelensestraat 44, 2574 RC, The Hague, Netherlands.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE], 3/21/16.
	Kapil Raj Arora, Breukelensestraat 44, 2574 RC, The Hague, Netherlands; *and* Knobbelswaansingel 19, 2496 LN, The Hague, Netherlands.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE], 3/21/16.
*	*	*	*	*
Singapore	Amanda Sng, 211 Henderson Road, #13–02 Henderson Industrial Park, Singapore 159552.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	*	*	*	*

Country	Entity	License requirement	License review policy	Federal Register citation
*	* *	*	* *	*
Switzerland	Beaumont Trading AG, a.k.a., the following one alias: —Beaumont Tradex India. Haldenstrasse 5, Baar (Zug Canton), CH 6342 Switzerland (See alternate addresses in India and the U.A.E.).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
*	* *	*	* *	*
United Arab Emirates.	* *	*	* *	*
	AdCom Systems, Industrial City of Abu Dhabi—ICAD, Abu Dhabi, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	Advanced Targeting Systems Company, LLC (ATS), P.O. Box 34237, High Specialized Economical Zone M41, 103A13, Al Mussafah, Abu Dhabi, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	* *	*	* *	*
	Beaumont Trading AG, a.k.a., the following one alias: —Beaumont Tradex India. DMCC Business Center, 49 Almas Tower—JLT Dubai, U.A.E. (See alternate addresses in India and Switzerland).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	Behover General Trading/Information Technologies, a.k.a., the following one alias: —DBA Behover Information Technologies. P.O. Box 25756, Atrium Center Building, Burdubai, Dubai, U.A.E.; *and* Unit M3&4, Atrium Centre, Bank Street Dubai, U.A.E.; *and* P.O. Box 19741, Dubai, U.A.E.; *and* Unit 2009, Prism Tower, Business Bay, Dubai, U.A.E.; *and* P.O. Box 115904, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	Beverly Apigo, P.O. Box 28515, Dubai, U.A.E.; *and* 202 B Sama Tower Sheikh Tayed Road #3 Dubai, U.A.E. P.O. Box 16048; *and* BC2–414, RAK Free Trade Zone, P.O. Box 16048, Ras Al Khaimah, U.A.E.; *and* G1/RAK Free Trade Zone RAK—U.A.E.; *and* G–17 Sheikh Tayed Road #3, Ras Al Khaimah Free Trade Zone, Dubai, U.A.E.; *and* P.O. Box 10559 Ras Al Khaimah, U.A.E.; *and* P.O. Box 25344 Bur Dubai, Dubai, U.A.E.; *and* Suite 608 Atrium Center, Bank St., Bur Dubai, Dubai, U.A.E., P.O. Box 16048; *and* Suite 706 Atrium Center Bank Street, Bur Dubai, Dubai U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	Complete Freight Solutions, 704 The Atrium Ctr, Khalid Bin, Dubai, U.A.E; *and* 1st Floor, Office No. 114, Yousef Al Otaiba Bldg, Above Emirates Islamic Bank Office, 2nd December Street (Old Al Dyafah Street), P.O. Box No. 29687, Satwa, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	* *	*	* *	*

Country	Entity	License requirement	License review policy	**Federal Register** citation
	Cybernet MEA, 202 B Sama Tower Sheikh Tayed Road #3, Dubai, U.A.E., P.O. Box 16048; *and* BC2–414, RAK Free Trade Zone, P.O. Box 16048 Ras Al Khaimah, U.A.E.; *and* G1/RAK Free Trade Zone RAK—U.A.E.; *and* G–17 Sheikh Tayed Road #3, Ras Al Khaimah Free Trade Zone, Dubai, U.A.E.; *and* No. 608 Atrium Center Bank Street, Dubai, U.A.E.; *and* P.O. Box 10559 Ras Al Khaimah, U.A.E.; *and* P.O. Box 116911 Dubai, U.A.E.; *and* P.O. Box 25344 Bur Dubai, Dubai, U.A.E.; *and* Suite 608 Atrium Center Bank Street, Bur Dubai, Dubai, U.A.E.; *and* Suite 706 Atrium Center Bank Street, Bur Dubai, Dubai U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	* *	*	* *	*
	Donna Lynn Ocampo, P.O. Box 28515, Dubai, U.A.E.; *and* 202 B Sama Tower Sheikh Tayed Road #3 Dubai, U.A.E., P.O. Box 16048; *and* BC2–414, RAK Free Trade Zone P.O. Box 16048 Ras Al Khaimah, U.A.E.; *and* G1/RAK Free Trade Zone RAK—U.A.E.; *and* G–17 Sheikh Tayed Road #3 Ras Al Khaimah Free Trade Zone Dubai, U.A.E.; *and* P.O. Box 10559 Ras Al Khaimah, U.A.E.; *and* P.O. Box 25344 Bur Dubai, Dubai, U.A.E.; *and* Suite 608 Atrium Center, Bank St., Bur Dubai, Dubai, U.A.E. P.O. Box 16048; *and* Suite 706 Atrium Center Bank Street Bur Dubai, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	* *	*	* *	*
	Frank Genin, a.k.a., the following one alias: —Franck Genin. Villa No. 6 AL WASL RD, 332/45b Jumeira 1, Dubai, Dubai 25344, U.A.E.; *and* Suite 608 Atrium Center, Bank St., Bur Dubai, Dubai, U.A.E., P.O. Box 16048; *and* Suite 706 Atrium Center Bank Street Bur Dubai, Dubai U.A.E.; *and* P.O. Box 10559 Ras Al Khaimah, U.A.E.; *and* P.O. Box 25344 Bur Dubai, Dubai, U.A.E.; *and* 2nd Floor, #202 Sheik Zayed Road Dubai POB 25344 U.A.E.; *and* P.O. Box 28515, Dubai, U.A.E.; *and* 202 B Sama Tower Sheikh Tayed Road #3 Dubai, U.A.E. P.O. Box 16048; *and* BC2–414, RAK Free Trade Zone P.O. Box 16048 Ras Al Khaimah, U.A.E.; *and* G1/RAK Free Trade Zone RAK—U.A.E.; *and* G–17 Sheikh Tayed Road #3 Ras Al Khaimah Free Trade Zone, Dubai, U.A.E. (See alternate address under Hong Kong).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	* *	*	* *	*
	Gulf Eagle Contracting (GEC), P.O. Box 31814, Al Dhafra Road, New Airport Road, Abu Dhabi, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	Gulf Eagle Industrial and Metal Profiles (GEIMP), P.O. Box 31814, Al Mussafah Industrial City, Abu Dhabi, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.

Country	Entity	License requirement	License review policy	Federal Register citation
	Hamideh Ghayour, P.O. Box 155904, Dubai, U.A.E.; and Unit M3&4, Atrium Centre, Bank Street Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	* *	*	* *	*
	Innovative Technology Systems (ITS), 2nd Floor, #202 Sheik Zayed Road Dubai, POB 25344, U.A.E.; *and* Suite 608 Atrium Center, Bank Street, Bur Dubai, Dubai, U.A.E; *and* Suite 706 Atrium Center Bank Street, Bur Dubai, Dubai U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	* *	*	* *	*
	Managed Systems and Services (MSAS)(FZC), No. A3089 Seif Sharjah U.A.E.; *and* SAIF Zone 250 M2 Warehouse P60–109, P.O. Box 122550, Sharjah, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	* *	*	* *	*
	Mehdi Jafariyeh, a.k.a., the following one alias: —Mehdi Jeffery. P.O. Box 28515, Dubai, U.A.E.; *and* 202 B Sama Tower Sheikh Tayed Road #3 Dubai, U.A.E., P.O. Box 16048; *and* BC2–414, RAK Free Trade Zone P.O. Box 16048 Ras Al Khaimah, U.A.E.; *and* G 1/RAK Free Trade Zone RAK—U.A.E.; *and* G–17 Sheikh Tayed Road #3 Ras Al Khaimah Free Trade Zone, Dubai, U.A.E. *and* P.O. Box 10559 Ras Al Khaimah, U.A.E.; *and* P.O. Box 25344 Bur Dubai, Dubai, U.A.E.; *and* Suite 608 Atrium Center, Bank St., Bur Dubai, Dubai, U.A.E., P.O. Box 16048; *and* Suite 706 Atrium Center Bank Street Bur Dubai, Dubai U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	* *	*	* *	*
	Patco Group Ltd, P.O. Box 20470, Ajman, U.A.E.; *and* Ajman Free Zone Bldg., 48-Block-C Meena Road near Ajman Sea Port, Ajman, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	* *	*	* *	*
	Reza Hajigholamali, P.O. Box 20470, Ajman, U.A.E.; *and* Ajman Free Zone Bldg., 48-Block-C Meena Road near Ajman Sea Port, Ajman, U.A.E (See alternate address under Iran).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	Rose Ann Apigo, P.O. Box 28515, Dubai, U.A.E.; *and* 202 B Sama Tower Sheikh Tayed Road #3 Dubai, U.A.E., P.O. Box 16048; *and* BC2–414, RAK Free Trade Zone P.O. Box 16048 Ras Al Khaimah, U.A.E.; *and* G1/RAK Free Trade Zone RAK—U.A.E.; *and* G–17 Sheikh Tayed Road #3 Ras Al Khaimah Free Trade Zone, Dubai, U.A.E.; *and* P.O. Box 10559 Ras Al Khaimah, U.A.E.; *and* P.O. Box 25344 Bur Dubai, Dubai, U.A.E.; *and* Suite 608 Atrium Center, Bank St., Bur Dubai, Dubai, U.A.E., P.O. Box 16048; *and* Suite 706 Atrium Center Bank Street, Bur Dubai, Dubai U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
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	Skylinks FZC, a.k.a., the following two aliases: —Skylinks; *and* —Skylinks Satellite Comm.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.

Country	Entity	License requirement	License review policy	**Federal Register** citation
	P.O. Box 28515, Dubai, U.A.E.; *and* 202 B Sama Tower Sheikh Tayed Road #3 Dubai, U.A.E., P.O. Box 16048; *and* BC2–414, RAK Free Trade Zone P.O. Box 16048 Ras Al Khaimah, U.A.E.; *and* G1/RAK Free Trade Zone RAK—U.A.E.; *and* G–17 Sheikh Tayed Road #3 Ras Al Khaimah Free Trade Zone, Dubai, U.A.E.; *and* P.O. Box 10559 Ras Al Khaimah, U.A.E.; *and* P.O. Box 25344 Bur Dubai, Dubai, U.A.E.; *and* Suite 608 Atrium Center, Bank St., Bur Dubai, Dubai, U.A.E., P.O. Box 16048; *and* Suite 706 Atrium Center Bank Street, Bur Dubai, Dubai U.A.E. 3 (See alternate address under Hong Kong).			
	* *	*	* *	*
	T.V. Joe Ouseppachan, Office 228, Al Aatar Shopping Mall, P.O. Box 115824, Karama, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	* *	*	* *	*
	Teofila Logistics, Office 228, Al Aatar Shopping Mall, P.O. Box 115824, Karama, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
	TGO General Trading LLC, a.k.a., the following one alias: —Three Green Orbit. 19th Floor Festival Tower, Festival City, P.O. Box 36605, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER], 3/21/16.
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Dated: March 17, 2016.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2016–06406 Filed 3–18–16; 8:45 am]

BILLING CODE 3510–33–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 32

RIN 3038–AE26

Trade Options

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (the ''Commission'' or the ''CFTC'') is issuing a final rule to amend the limited trade options exemption in the Commission's regulations, as described herein, with respect to the following subject areas: Reporting requirements for trade option counterparties that are not swap dealers or major swap participants; recordkeeping requirements for trade option counterparties that are not swap dealers or major swap participants; and certain non-substantive amendments.

DATES: *Effective date:* The effective date for this final rule is March 21, 2016.

FOR FURTHER INFORMATION CONTACT: David N. Pepper, Special Counsel, Division of Market Oversight, at (202) 418–5565 or *dpepper@cftc.gov;* or Mark Fajfar, Assistant General Counsel, Office of the General Counsel, at (202) 418–6636 or *mfajfar@cftc.gov,* Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

In April 2012, pursuant to section 4c(b) of the Commodity Exchange Act (the ''CEA'' or the ''Act''),[1] the Commission issued a final rule to repeal and replace part 32 of its regulations concerning commodity options.[2] The Commission undertook this effort to address section 721 of the Dodd-Frank Act Wall Street Reform and Consumer Protection Act (the ''Dodd-Frank Act'' or ''Dodd-Frank''),[3] which, among other things, amended the CEA to define the term ''swap'' to include commodity options.[4] Notably, § 32.2(a) provides the

[1] 7 U.S.C. 6c(b) (providing that no person shall offer to enter into, enter into or confirm the execution of, any transaction involving any commodity regulated under this chapter which is of the character of, or is commonly known to the trade as an ''option'' contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe).

[2] *See* Commodity Options, 77 FR 25320 (Apr. 27, 2012) (''Commodity Options Release''). The Commission also issued certain conforming amendments to parts 3 and 33 of its regulations. *See id.* The Commission's regulations are set forth in chapter I of title 17 of the Code of Federal Regulations.

[3] Public Law 111–203, 124 Stat. 1376 (2010).

[4] *See* 7 U.S.C. 1a(47)(A)(i) (defining ''swap'' to include an option of any kind that is for the purchase or sale, or based on the value, of 1 or more commodities''); 7 U.S.C. 1a(47)(B)(i) (excluding options on futures from the definition of ''swap''); 7 U.S.C. 1a(36) (defining an ''option'' as an agreement, contract, or transaction that is of the character of, or is commonly known to the trade as, an ''option''). The Commission defines ''commodity option'' or ''commodity option transaction'' as any transaction or agreement in interstate commerce which is or is held out to be of the character of, or is commonly known to the trade as, an ''option,'' ''privilege,'' ''indemnity,'' ''bid,'' ''offer,'' ''call,'' ''put,'' ''advance guaranty'' or ''decline guaranty''

general rule that commodity option transactions must be conducted in compliance with any Commission rule, regulation, or order otherwise applicable to any other swap.[5]

In response to requests from commenters, the Commission added a limited exception to this general rule for physically delivered commodity options purchased by commercial users of the commodities underlying the options (the ''trade option exemption'').[6] Adopted as an interim final rule, § 32.3 provides that qualifying commodity options are generally exempt from the swap requirements of the CEA and the Commission's regulations, subject to certain specified conditions. To qualify for the trade option exemption, a commodity option transaction must meet the following requirements: (1) The offeror is either an eligible contract participant (''ECP'') [7] or a producer, processor, commercial user of, or merchant handling the commodity that is the subject of the commodity option transaction, or the products or byproducts thereof (a ''commercial party'') that offers or enters into the commodity option transaction solely for purposes related to its business as such; (2) the offeree is, and the offeror reasonably believes the offeree to be, a commercial party that is offered or enters into the transaction solely for purposes related to its business as such; and (3) the option is intended to be physically settled so that, if exercised, the option would result in the sale of an exempt or agricultural commodity [8] for immediate or deferred shipment or delivery.[9]

Commodity option transactions that meet these requirements are generally exempt from the provisions of the Act and any Commission rule, regulation, or order promulgated or issued thereunder, otherwise applicable to any other swap, except for the requirements enumerated in § 32.3(b)–(d).[10] These requirements include: Recordkeeping and reporting requirements; [11] large trader reporting requirements in part 20; [12] position limits under part 151; [13] certain recordkeeping, reporting, and risk management duties applicable to swap dealers (''SDs'') and major swap participants (''MSPs'') in subparts F and J of part 23; [14] capital and margin requirements for SDs and MSPs under CEA section 4s(e); [15] and any applicable antifraud and anti-manipulation provisions.[16]

In adopting § 32.3,[17] the Commission stated that the trade option exemption is generally intended to permit parties to hedge or otherwise enter into commodity option transactions for commercial purposes without being subject to the full Dodd-Frank swaps regime.[18] This limited exemption continued the Commission's longstanding practice of providing commercial participants in trade options with relief from certain requirements that would otherwise apply to commodity options.[19] The Commission further explained that the applicable conditions in § 32.3(b)–(d) were primarily intended to preserve a level of visibility into the market for trade options while still reducing the regulatory compliance burden for trade option participants.[20]

B. Existing Reporting Requirements for Trade Option Counterparties That Are Non-SD/MSPs

Pursuant to § 32.3(b)(1), the determination as to whether a trade option must be reported pursuant to part 45 is based on the status of the parties to the trade option and whether or not they have previously reported swaps to an appropriate swap data repository (''SDR'') pursuant to part 45.[21] If a trade option involves at least one counterparty (whether as buyer or seller) that has (1) become obligated to comply with the reporting requirements of part 45, (2) as a reporting party, (3) during the twelve month period

and which is subject to regulation under the Act and Commission regulations. *See* 17 CFR 1.3(hh).

[5] *See* 17 CFR 32.2.

[6] *See* 77 FR at 25326–29. *See also* 17 CFR 32.2(b), 32.3. The interim final rule continued the Commission's long history of providing special treatment to ''trade options'' dating back to the Commission's original trade option exemption in 1976. *See* Regulation and Fraud in Connection with Commodity and Commodity Option Transactions, 41 FR 5108 (Nov. 18, 1976).

[7] *See* 7 U.S.C. 1a(18) (defining ''eligible contract participant''); 17 CFR 1.3(m) (further defining ''eligible contract participant'').

[8] *See* 7 U.S.C. 1a(20) (defining ''exempt commodity'' to mean a commodity that is not an agricultural commodity or an ''excluded commodity,'' as defined in 7 U.S.C. 1a(19)); 17 CFR 1.3(zz) (defining ''agricultural commodity''). Examples of exempt commodities include energy commodities and metals.

[9] *See* 17 CFR 32.3(a).

[10] *See* 17 CFR 32.3(a), (b)–(d).

[11] *See* 17 CFR 32.3(b).

[12] *See* 17 CFR 32.3(c)(1). Applying § 32.3(c)(1), reporting entities as defined in part 20—swap dealers and clearing members—must consider their counterparty's trade option positions just as they would consider any other swap position for the purpose of determining whether a particular counterparty has a consolidated account with a reportable position. *See* 17 CFR 20.1. A trade option counterparty would not be responsible for filing large trader reports unless it qualifies as a ''reporting entity,'' as that term is defined in § 20.1.

[13] *See* 17 CFR 32.3(c)(2). *See also Int'l Swaps & Derivatives Ass'n* v. *U.S. Commodity Futures Trading Comm'n,* 887 F. Supp. 2d 259, 270 (D.D.C. 2012), vacating the part 151 rulemaking, Position Limits for Futures and Swaps, 76 FR 71626 (Nov. 18, 2011).

[14] *See* 17 CFR 32.3(c)(3)–(4). Note that § 32.3(c)(4) explicitly incorporates §§ 23.201 and 23.204, which require counterparties that are SD/MSPs to comply with part 45 recordkeeping and reporting requirements, respectively, in connection with all their swaps activities (including all their trade option activities). *See* 17 CFR 23.201(c), 23.204(a).

[15] *See* 17 CFR 32.3(c)(5).

[16] *See* 17 CFR 32.3(d). Note that § 32.2 also preserves the continued application of § 32.4, which specifically prohibits fraud in connection with commodity option transactions, to commodity options subject to the trade option exemption. *See* 17 CFR 32.2, 32.4.

[17] In the year following the Commission's adoption of the trade option exemption, the Commission's Division of Market Oversight (''DMO'') issued a series of no-action letters granting relief from certain conditions in the trade option exemption. *See* CFTC No-Action Letter No. 12–06 (Aug. 14, 2012), *available at http://www.cftc.gov/ucm/groups/public/@lrlettergeneral/documents/letter/12-06.pdf;* CFTC No-Action Letter No. 12–41 (Dec. 5, 2012), *available at http://www.cftc.gov/ucm/groups/public/@lrlettergeneral/documents/letter/12-41.pdf;* CFTC No-Action Letter No. 13–08 (Apr. 5, 2013), *available at http://www.cftc.gov/ucm/groups/public/@lrlettergeneral/documents/letter/13-08.pdf.* CFTC No-Action Letter No. 13–08 (''No-Action Letter 13–08'') provides that DMO would not recommend that the Commission commence an enforcement action against a market participant that is a Non-SD/MSP for failing to comply with the part 45 reporting requirements, as required by § 32.3(b)(1), provided that such Non-SD/MSP meets certain conditions, including reporting such exempt commodity option transactions via Form TO and notifying DMO no later than 30 days after entering into trade options having an aggregate notional value in excess of $1 billion during any calendar year. No-Action Letter 13–08 at 3–4. No-Action Letter 13–08 also grants relief from certain swap recordkeeping requirements in part 45 for a Non-SD/MSP that complies with the recordkeeping requirements set forth in § 45.2, provided that if the counterparty to the trade option at issue is an SD or an MSP, the Non-SD/MSP obtains a legal entity identifier (''LEI'') pursuant to § 45.6. *Id.* at 4–5. DMO will withdraw the no-action relief provided pursuant to No-Action Letter 13–08 upon the effective date of this final rule.

[18] *See* 77 FR at 25326, n.39. The limited trade option exemption in § 32.3 operates as a general exemption from the rules otherwise applicable to swaps, subject to the conditions enumerated in § 32.3. For example, trade options do not factor into the determination of whether a market participant is an SD or MSP; trade options are exempt from the rules on mandatory clearing; and trade options are exempt from the rules related to real-time reporting of swaps transactions. The provisions identified in this list are not intended to constitute an exclusive or exhaustive list of the swaps requirements from which trade options are exempt.

[19] *See* Regulation and Fraud in Connection with Commodity and Commodity Option Transactions, 41 FR 51808 (Nov. 24, 1976) (adopting an exemption from the general requirement that commodity options be traded on-exchange for commodity option transaction for certain transactions involving commercial parties); Suspension of the Offer and Sale of Commodity Options, 43 FR 16153, 16155 (Apr. 17, 1978) (adopting a rule suspending all trading in commodity options other than such exempt trade options); Trade Options on the Enumerated Agricultural Commodities, 63 FR 18821 (Apr. 16, 1998) (authorizing the off-exchange trading of trade options in agricultural commodities).

[20] *See* 77 FR at 25326–27.

[21] *See* 17 CFR 32.3(b)(1).

preceding the date on which the trade option is entered into, (4) in connection with any non-trade option swap trading activity, then such trade option must also be reported pursuant to the reporting requirements of part 45. If only one counterparty to a trade option has previously complied with the part 45 reporting provisions, as described above, then that counterparty shall be the part 45 reporting counterparty for the trade option. If both counterparties have previously complied with the part 45 reporting provisions, as described above, then the part 45 rules for determining the reporting counterparty will apply.[22]

To the extent that neither counterparty to a trade option has previously submitted reports to an SDR as a result of its swap trading activities as described above, then such trade option is not required to be reported pursuant to part 45. Instead, § 32.3(b)(2) requires that each counterparty to an otherwise unreported trade option (*i.e.,* a trade option that is not required to be reported to an SDR by either counterparty pursuant to § 32.3(b)(1) and part 45) completes and submits to the Commission an annual Form TO filing providing notice that the counterparty has entered into one or more unreported trade options during the prior calendar year.[23] Form TO requires an unreported trade option counterparty to: (1) Provide its name and contact information; (2) identify the categories of commodities (agricultural, metals, energy, or other) underlying one or more unreported trade options which it entered into during the prior calendar year; and (3) for each commodity category, identify the approximate aggregate value of the underlying physical commodities that it either delivered or received in connection with the exercise of unreported trade options during the prior calendar year. Counterparties to otherwise unreported trade options must submit a Form TO filing by March 1 following the end of any calendar year during which they entered into one or more unreported trade options.[24] In adopting § 32.3, the Commission stated that Form TO was intended to provide the Commission with a level of visibility into the market for unreported trade options that is ''minimally intrusive,'' thereby allowing it to identify market participants from whom it should collect additional information, or whom it should subject to additional reporting obligations in the future.[25]

C. Existing Recordkeeping Requirements for Trade Option Counterparties That Are Non-SD/MSPs

Commission regulation § 32.3(b) provides that in connection with any commodity option transaction that is eligible for the trade option exemption, every counterparty shall comply with the swap data recordkeeping requirements of part 45, as otherwise applicable to any swap transaction.[26] In discussing the trade option exemption conditions, however, the Commission noted in the preamble to the Commodity Options Release that ''[t]hese conditions include a recordkeeping requirement for any trade option activity, *i.e.,* the recordkeeping requirements of 17 CFR 45.2,'' and did not reference or discuss any other provision of part 45 that contains recordkeeping requirements.[27]

Pursuant to Commission regulation § 45.2, records must be maintained by all trade option participants and made available to the Commission as specified therein.[28] Notably, § 45.2 applies different recordkeeping requirements, depending on the nature of the counterparty. For example, if a trade option counterparty is an SD or MSP, it would be subject to the recordkeeping provisions of § 45.2(a). If a counterparty is a Non-SD/MSP, it would be subject to the less stringent recordkeeping requirements of § 45.2(b).[29] Additional recordkeeping requirements in part 45, separate and apart from those specified in § 45.2 and which would apply to all trade option counterparties by operation of § 32.3(b) include:

- Each swap must be identified in all recordkeeping by the use of a unique swap identifier (''USI'');[30]
- Each counterparty to any swap must be identified in all recordkeeping by means of a single LEI;[31] and
- Each swap must be identified in all recordkeeping by means of a unique product identifier (''UPI'') and product classification system.[32]

D. Trade Options Notice of Proposed Rulemaking

On May 7, 2015, the Commission published in the **Federal Register** a notice of proposed rulemaking that included several proposed amendments to the limited exemption for trade options in Commission regulation § 32.3 (''the Proposal'').[33] The Commission proposed modifications to the recordkeeping and reporting requirements in existing § 32.3(b) that are applicable to trade option counterparties that are Non-SD/MSPs. The Commission also proposed a non-substantive amendment to existing § 32.3(c) to eliminate the reference to the now-vacated part 151 position limits requirements. These proposed amendments were generally intended to relax reporting and recordkeeping requirements where two commercial parties enter into trade options with each other in connection with their respective businesses while maintaining regulatory insight into the market for unreported trade options.

The Commission requested comment on all aspects of the Proposal.[34] In response, the Commission received nine comment letters.[35] Some of these

[22] *See* 17 CFR 45.8.

[23] Form TO is set out in appendix A to part 32 of the Commission's regulations.

[24] In 2014, approximately 330 Non-SD/MSPs submitted Form TO filings to the Commission, approximately 200 of which indicated delivering or receiving less than $10 million worth of physical commodities in connection with exercising unreported trade options in 2013, which was the first year in which § 32.3 and Form TO reporting became effective. In 2015, approximately 349 Non-SD/MSPs submitted Form TO filings to the Commission, approximately 150 of which indicated delivering or receiving less than $10 million worth of physical commodities.

[25] *See* 77 FR at 25327–28.

[26] *See* 17 CFR 32.3(b).

[27] *See* 77 FR at 25327.

[28] 17 CFR 32.3(b), 45.2.

[29] In the case of Non-SD/MSPs, the primary recordkeeping requirements are set out in § 45.2(b), which requires Non-SD/MSPs to keep ''full, complete and systematic records, together with all pertinent data and memoranda, with respect to each swap in which they are a counterparty.'' Non-SD/MSPs are also subject to the other general recordkeeping requirements of § 45.2, such as the requirement that records must be maintained for 5 years following the final termination of the swap and must be retrievable within 5 days. *See* 17 CFR 45.2(c).

[30] 17 CFR 45.5.

[31] Each counterparty to any swap subject to the Commission's jurisdiction must be identified in all recordkeeping and all swap data reporting pursuant to part 45 by means of a single LEI as specified in § 45.6. *See* 17 CFR 45.6.

[32] 17 CFR 45.7.

[33] Trade Options, Notice of Proposed Rulemaking, 80 FR 26200 (May 7, 2015), *available at http://www.cftc.gov/ucm/groups/public/@lrfederalregister/documents/file/2015-11020a.pdf.*

[34] *See* 80 FR at 26202. Initially, comments on the Proposal were due on or before June 8, 2015. Then, on June 2, 2015, the Commission extended the comment period for the Proposal through June 22, 2015, in light of the Commission's then recently-published interpretation concerning forward contracts with embedded volumetric optionality. *See* Forward Contracts with Embedded Volumetric Optionality, 80 FR 28239 (May 18, 2015).

[35] All comment letters are available through the Commission's Web site at *http://comments.cftc.gov/PublicComments/CommentList.aspx?id=1580.* Comments addressing the Trade Options NPRM were received from the following parties: The American Gas Association (''AGA''); The American Public Gas Association (''APGA''); The American Public Power Association, Edison Electric Institute, Electric Power Supply Association, Large Public Power Council, National Rural Electric Cooperative Association (''Electric Associations''); The Coalition of Physical Energy Companies (''COPE''); Cogen Technologies Linden Venture, L.P. (''Linden''); The Commercial Energy Working Group (''CEWG''); The International Energy Credit Association (''IECA''); The Natural Gas Supply Association (''NGSA''); and

comment letters raised issues concerning the treatment of trade options, and, more generally, commodity options, in relation to the swap definition.[36] However, in the Proposal, the Commission did not address the general treatment of commodity options, including trade options, in relation to the swap definition, nor did the Commission solicit comments on such definitional issues. Rather, as discussed above, the Proposal contained only specific proposed modifications to the recordkeeping and reporting requirements in § 32.3(b) that are applicable to trade option counterparties that are Non-SD/MSPs, as well as a proposed non-substantive amendment to § 32.3(c). Since issues concerning the treatment of commodity options in relation to the swap definition fall outside the scope of the Proposal, the Commission declines to address such definitional issues in this final rule.

The following section will address the comments received on specific aspects of the Proposal in connection with explaining each of the amended regulations adopted herein.

II. Discussion of Revised Regulations

A. Revised Reporting Requirements for Trade Option Counterparties That Are Non-SD/MSPs

1. Elimination of Part 45 Reporting Requirements for Trade Option Counterparties That Are Non-SD/MSPs

The Commission proposed to amend § 32.3(b) such that a Non-SD/MSP will under no circumstances be subject to part 45 reporting requirements with respect to its trade option activities.[37] The Commission explained in the Proposal that this proposed amendment was intended to reduce reporting burdens for Non-SD/MSP trade option counterparties, many of whom face technical and logistical impediments that prevent timely compliance with part 45 reporting requirements.[38]

NGSA, IECA, and APGA each supported deletion of part 45 reporting requirements for trade option counterparties that are Non-SD/MSPs.[39] No commenter opposed deletion.

The Commission recognizes that many parties who are not SDs or MSPs and do not engage in significant swap activity apart from trade options do not have the infrastructure in place to support part 45 reporting to an SDR and that instituting such infrastructure would be costly, particularly for small end users. Therefore, the Commission believes that these parties, who apart from their trade option activities would have very limited reporting obligations under part 45, should not be required to comply with part 45 reporting requirements solely on the basis of having had to report a minimal number of historical or inter-affiliate swaps during the same twelve-month period.

Accordingly, for the reasons set forth above and in the Proposal, the Commission is adopting amended regulation § 32.3(b), as proposed, by eliminating part 45 reporting requirements for trade option counterparties that are Non-SD/MSPs.

2. Elimination of the Form TO Notice Filing Requirement

The Commission proposed to amend Commission regulation § 32.3(b) such that a Non-SD/MSP would not be required to report otherwise unreported trade options on Form TO.[40] The Commission further proposed to delete Form TO from appendix A to part 32. The Commission explained in the Proposal that these proposed amendments were intended to reduce reporting burdens for Non-SD/MSP trade option counterparties, many of whom face significant costs in preparing Form TO.[41]

AGA, Electric Associations, CEWG, APGA and NGSA each supported deletion of the Form TO reporting requirement.[42] No commenter opposed deletion of Form TO. AGA commented that the proposed elimination of Form TO could ''reduce a significant compliance cost and obviate the need for small end-users to track and report their trade options activity for a given calendar year.'' [43] Electric Associations commented that ''Form TO imposes substantial costs on end-users for personnel, legal advice and infrastructure,'' and completing Form TO requires an end-user to ''continuously track the commodity trade options it enters into, identify which of the commodity trade options have and have not been reported, and track the commodity trade options exercised. . . .'' [44] CEWG commented that ''elimination of the obligation to file Form TO will allow [Non-SD/MSP trade option counterparties] to (i) reduce the amount of resources dedicated to identifying and tracking their trade options and (ii) reallocate resources for optimal utilization.'' [45] COPE commented that filing the actual Form TO is not burdensome, but rather it is the underlying tracking that is burdensome.[46]

The Commission recognizes that completing Form TO imposes costs and burdens on Non-SD/MSPs who enter into trade options, especially small end users. The Commission notes that Form TO data, which is submitted annually, consists of approximated aggregate values of otherwise unreported trade options exercised within three broad ranges, and within four ''commodity categories.'' [47] The Commission believes that, in view of the relatively limited surveillance and regulatory oversight benefits to be derived by the Commission from Form TO data, which is approximated, aggregated and undifferentiated, completion and submission of Form TO should no longer be required.

Accordingly, for the reasons set forth above, the Commission is amending regulation § 32.3(b), as proposed, by deleting the Form TO reporting requirement in connection with otherwise unreported trade options. Additionally, as proposed, the Commission is deleting appendix A to part 32, which contains Form TO.

3. The Proposed $1 Billion Notice and Alternative Notice Provisions Have Not Been Adopted

The Commission proposed to further amend § 32.3(b) by adding a new requirement that Non-SD/MSP trade

Southern Company Services Inc. on behalf of and as agent for Alabama Power Co., Georgia Power Co., Gulf Power Co., Mississippi Power Co., and Southern Power Co. (''Southern'').

[36] *See, e.g.,* IECA at 8–13; Linden at 2–8; Electric Associations at 6–10; AGA at 2–5; and Southern at 6–8.

[37] *See* 80 FR at 26203. Note that trade option counterparties that are SD/MSPs would continue to comply with the swap data reporting requirements of part 45, including where the counterparty is a Non-SD/MSP, as they would in connection with any other swap transaction. *See* 17 CFR 32.3(c)(4) [renumbered 32.3(c)(3)], 23.201 and 23.204.

[38] *Id.*

[39] *See* NGSA at 1 (''The elimination of Part 45 reporting . . . for [Non-SD/MSP] counterparties to trade options will eliminate costs that stem from those reporting efforts, and this is a welcome change in reporting requirements.''); *see also* IECA at 2; APGA at 2.

[40] *See* 80 FR at 26203.

[41] *Id.*

[42] *See, e.g.,* AGA at 2, 8; Electric Associations at 1, 5; CEWG at 2; APGA at 2; NGSA at 1.

[43] AGA at 8.

[44] *See* Electric Associations at 5.

[45] CEWG at 2.

[46] *See* COPE at 2.

[47] Form TO requires Non-SD/MSP trade option counterparties to report the approximate size of unreported trade options exercised in the prior calendar year within three dollar-value ranges: Less than $10 million, between $10 million and $100 million, and over $100 million. Form TO also requires Non-SD/MSP trade option counterparties to indicate the ''commodity category'' in which they entered into one or more unreported trade options: Agricultural, metals, energy or ''other.'' *See* appendix A to part 32 of the Commission's regulations.

option counterparties provide notice by email to DMO within 30 days after entering into trade options, whether reported or unreported, that have an aggregate notional value in excess of $1 billion in any calendar year (the ''$1 Billion Notice'').[48] The Commission further proposed that, as an alternative to filing the $1 Billion Notice, a Non-SD/MSP could provide notice by email to DMO that it reasonably expects to enter into trade options, whether reported or unreported, having an aggregate notional value in excess of $1 billion during any calendar year (the ''Alternative Notice'').[49] Collectively, the $1 Billion Notice and the Alternative Notice were referred to in the proposal as the ''Notice Requirement.'' [50] The Commission explained in the Proposal that in light of the other proposed amendments that would generally remove reporting requirements for Non-SD/MSP counterparties to trade options, the proposed Notice Requirement would provide the Commission insight into the size of the market for unreported trade options and the identities of the most significant market participants, and would help guide the Commission's efforts to collect additional information through its authority to obtain copies of books or records should market circumstances dictate.[51]

Electric Associations, COPE and Southern each recommended against adoption of the proposed Notice Requirement.[52] Electric Associations commented that it would be burdensome for Non-SD/MSPs to track and value trade options ''in a manner different than their ordinary tracking, measuring and recordkeeping for other cash commodity transactions (intended to be physically settled),'' and that such burden would be greater for smaller entities, which would need to track and value their trade options throughout the year, than it would be for large Non-SD/MSP counterparties, which could merely send the proposed Alternative Notice email to the Commission in January of each year.[53] Southern commented that elimination of the Form TO reporting requirement would not be as meaningful if the Commission adopts the proposed $1 Billion Notice, because a Non-SD/MSP would nevertheless be required ''to classify, value and track their trade options'' all towards compliance with the Notice Requirement.[54]

AGA generally supported the Notice Requirement reporting framework, but commented that it is especially difficult to value many common types of trade options, such as long-term trade options and trade options with open-ended price or quantity terms, towards compliance with the proposed $1 Billion Notice.[55]

The Commission recognizes that the relief provided by eliminating Form TO and part 45 reporting for trade option counterparties that are Non-SD/MSPs would be more meaningful if Non-SD/MSP trade option counterparties are not required to classify, value and track their trade options for the exclusive purpose of complying with the proposed Notice Requirement. The Commission also recognizes that commenters have expressed that trade options, especially trade options that have a long duration or open price or quantity terms, may be difficult to value. Thus, the burdens on Non-SD/MSP trade option counterparties to classify, value and track their trade options towards compliance with the proposed Notice Requirement could be significant, and it is not evident that there are any steps these counterparties could take to more accurately classify, value and track their trade options, given the uncertainties inherent in this type of contract. Therefore, in view of the relatively limited use of such data (which would be submitted in aggregate form and not categorized by commodity or by instrumentation) for surveillance and regulatory oversight purposes, the Commission does not believe that the proposed Notice Requirement is necessary.

Accordingly, for the reasons set forth above, the Commission has chosen not to adopt as part of this final rule the proposed Notice Requirement, *i.e.,* the proposed $1 Billion Notice and Alternative Notice requirements.

B. Revised Recordkeeping Requirements for Trade Option Counterparties That Are Non-SD/MSPs

The Commission proposed to amend § 32.3(b) to clarify that trade option counterparties that are Non-SD/MSPs need not identify their trade options in all recordkeeping by means of either a USI or UPI, as required by §§ 45.5 and 45.7.[56] Rather, with respect to part 45 recordkeeping requirements, the Commission proposed to clarify that trade option counterparties that are Non-SD/MSPs need only comply with the applicable recordkeeping provisions in § 45.2,[57] along with the following proposed qualification: The Non-SD/MSP trade option counterparty must obtain an LEI pursuant to § 45.6 and provide such LEI to its counterparty if that counterparty is an SD/MSP. This proposed amendment would allow a trade option counterparty that is an SD/MSP to comply with applicable part 45 swap data recordkeeping and reporting obligations by properly identifying its Non-SD/MSP trade option counterparty by that counterparty's LEI.[58]

Electric Associations, COPE, IECA and Southern each recommended further reduction of trade option recordkeeping requirements for Non-SD/MSPs.[59] Electric Associations commented that various types of end-users currently maintain records of trade options in ''different systems, in different formats and for different retention periods than transactions referencing the same commodities that are intended to be financially settled, causing such records to not be retrievable in the same manner or format, or as quickly, as financially settled transactions.'' [60] COPE commented that compliance with part 45 recordkeeping requirements in connection with trade options is burdensome for end-users, who must ''identify and segregate trade options from other physical contracts, maintain the material required by CFTC regulations, and be prepared to provide requested data to the CFTC within five

[48] *See* 80 FR at 26203–04. As discussed above, the no-action relief provided by No-Action Letter 13–08 to Non-SD/MSP trade option counterparties from part 45 reporting requirements is also conditioned on the Non-SD/MSP providing DMO with a $1 Billion Notice. *See* note 17 and accompanying text, *supra.* In 2013, 2014 and 2015, DMO received $1 Billion Notices from nine, sixteen and fifteen Non-SD/MSPs, respectively. Most of these $1 Billion Notices were filed on behalf of large, well known energy companies.

[49] *See* 80 FR at 26203–04. The Commission proposed that Non-SD/MSPs who provide the Alternative Notice would not be required to demonstrate that they actually entered into trade options with an aggregate notional value of $1 billion or more in the applicable calendar year.

[50] 80 FR at 26203.

[51] *See* 80 FR at 26203–04.

[52] *See* Electric Associations at 4–6; Cope at 3; Southern at 2–3.

[53] *See* Electric Associations at 5–6.

[54] *See* Southern at 2–3.

[55] *See* AGA at 5–8.

[56] *See* 80 FR at 26204; *see* also notes 30–32 and accompanying text, *supra.*

[57] Trade option counterparties that are SD/MSPs shall continue to comply with the swap data recordkeeping requirements of part 45, as they would in connection with any other swap. *See* 17 CFR 32.3(c).

[58] An SD/MSP that otherwise would report the trade option at issue pursuant to § 32.3(c) is required to identify its counterparty to the trade option by that counterparty's LEI in all recordkeeping as well as all swap data reporting. *See* 17 CFR 23.201, 23.204, and 45.6.

[59] *See* Electric Associations at 10–11; COPE at 2–3; IECA at 2–5; Southern at 4–5.

[60] Electric Associations at 11.

days.'' [61] COPE recommended allowing physical end-users to keep records of trade options ''in a manner no less stringent than that used for their physical commercial agreements, with an obligation to provide copies to the CFTC in a commercially reasonable time upon request.'' [62] Southern recommended that the Commission provide further relief by permitting Non-SD/MSPs to ''maintain the documents that they would otherwise already maintain in their ordinary course of business.'' [63] Southern further commented that the recordkeeping requirements under § 45.2(b) are ''very broad and vague,'' and that carrying forward these requirements will result in a ''tremendous burden'' on Non-SD/MSPs, who ''will need to undergo a significant effort to ensure 'full, complete, and systematic records, together will all pertinent data and memoranda' are maintained for every trade option.'' [64] The Commission did not receive any comments specifically addressing the requirement that a Non-SD/MSP trade option counterparty would need to obtain an LEI pursuant to § 45.6 and provide such LEI to its counterparty if that counterparty is an SD/MSP.

The Commission recognizes that requiring Non-SD/MSPs to comply with the swap data recordkeeping requirements of part 45 in connection with their trade options may result in burdens and costs for such participants, especially for small end users. The Commission believes that it would be appropriate to alleviate such burdens and costs for these market participants, without compromising the Commission's ability to properly oversee trade option activities. In particular, the Commission expects that Non-SD/MSPs maintain records concerning their trade option activities in the ordinary course of business. Furthermore, the Commission will remain able to collect information concerning trade option activities as necessary. For example, where a Non-SD/MSP enters into a trade option opposite an SD/MSP, the SD/MSP counterparty must continue to comply with all applicable swaps-related recordkeeping and reporting requirements of part 45 with respect to that transaction.[65] In order to facilitate such reporting and recordkeeping by trade option counterparties that are SD/MSPs, the Commission will adopt, as proposed, the requirement that a Non-SD/MSP trade option counterparty must obtain an LEI pursuant to § 45.6 and provide such LEI to its counterparty if that counterparty is an SD/MSP. As stated above, this requirement allows an SD/MSP to properly identify its Non-SD/MSP trade option counterparty by that counterparty's LEI in all swap data recordkeeping and reporting relating to that transaction.[66] As a result, the Commission will be able to gain insight into any trade option entered into by a Non-SD/MSP opposite a counterparty that is an SD/MSP. Additionally, under § 32.3(c)(2)[renumbered § 32.3(c)(1)], Non-SD/MSPs that are clearing members shall continue to comply with part 20 reporting and recordkeeping requirements in connection with their trade option activities.[67]

Accordingly, the Commission is amending regulation § 32.3(b) by deleting the requirement that a Non-SD/MSP must comply with the recordkeeping requirements of part 45 (as otherwise applicable to any swap) in connection with its trade option activities, subject to the exception that a Non-SD/MSP trade option counterparty must obtain an LEI pursuant to § 45.6 and provide such LEI to its counterparty if that counterparty is an SD/MSP.

C. Applicability of Position Limits to Trade Options

Existing Commission regulation § 32.3(c)(2) subjects trade options to part 151 position limits, to the same extent that part 151 would apply in connection with any other swap.[68] However, as stated above, part 151 has been vacated.[69] Furthermore, trade options are not subject to position limits under the Commission's current part 150 position limit regime.[70]

In the Proposal, the Commission proposed to amend existing § 32.3(c) by deleting § 32.3(c)(2), including the reference to vacated part 151, because position limits do not currently apply to trade options. The Commission explained in the Proposal that this would not be a substantive change.[71] Accordingly, for the reasons stated above, the Commission is deleting the cross-reference to vacated part 151 position limits from § 32.3(c), as proposed.

Several commenters requested assurance from the Commission that federal speculative position limits will not apply to trade options in the future as a result of the pending position limits rulemaking, which remains in the proposed rulemaking stage.[72] The Commission believes that federal speculative position limits should not apply to trade options. To that end, the Commission intends to address this matter in the context of the proposed rulemaking on position limits, if such rule is adopted.

III. Related Matters

A. Cost Benefit Analysis

1. Background

As discussed above, the Commission is adopting amendments to the trade option exemption in § 32.3 that: (1) Eliminate the part 45 reporting requirement for trade option counterparties that are Non-SD/MSPs; (2) eliminate the Form TO filing requirement; (3) eliminate the part 45 recordkeeping requirements for trade option counterparties that are Non-SD/MSPs, with the exception being that a Non-SD/MSP trade option counterparty must obtain an LEI pursuant to § 45.6 and provide such LEI to its counterparty if that counterparty is an SD/MSP; and (4) eliminate reference to the now-vacated part 151 position limits. In issuing this final rule, the Commission

[61] COPE at 2–3.

[62] *Id.* at 3.

[63] Southern at 4.

[64] *Id.*

[65] Trade option counterparties that are SD/MSPs shall continue to comply with the swap data recordkeeping and reporting requirements of part 45, as they would in connection with any other swap. *See* 17 CFR 32.3(c).

[66] *See* 17 CFR 32.3(c).

[67] 17 CFR 32.3(c)(1); 17 CFR part 20. A clearing member, as defined in § 20.1, means any person who is a member of, or enjoys the privilege of, clearing trades in its own name through a clearing organization. Section 20.6(d) requires that all books and records required to be kept under § 20.6 shall be furnished upon request to the Commission along with any pertinent information concerning such positions, transactions, or activities. The recordkeeping duties imposed by § 20.6 are in accordance with the requirements of Regulation 1.31. *See* 17 CFR 20.6(a)–(b).

[68] *See* 17 CFR 32.3(c)(2).

[69] *See* note 13 and accompanying text, *supra.*

[70] Under current § 150.2, position limits apply to agricultural futures in nine listed commodities and options on those futures. Since trade options are not options on futures, § 150.2 position limits do not currently apply to such transactions. *See* 17 CFR 150.2.

[71] 80 FR at 26204–05.

[72] *See, e.g.,* AGA at 8–9; Electric Associations at 14–15; CEWG at 2–3; APGA at 2; NGSA at 2; IECA at 6–7; Southern at 5–6. On December 12, 2013, the Commission published in the **Federal Register** a notice of proposed rulemaking to establish speculative position limits for 28 exempt and agricultural commodity futures and options contracts and the physical commodity swaps that are economically equivalent to such contracts, including trade options. *See* Position Limits for Derivatives, Proposed Rules, 78 FR 75680 (Dec. 12, 2013) (''Position Limits Proposal''). Therein, the Commission proposed replacing the cross-reference to vacated part 151 in § 32.3(c)(2) with a cross-reference to amended part 150 position limits. *See* 78 FR at 75711. As an alternative in the Position Limits Proposal, the Commission proposed to exclude trade options from speculative position limits and proposed an exemption for commodity derivative contracts that offset the risk of trade options.

has reviewed all relevant comment letters and taken into account significant issues raised therein.[73]

The Commission believes that the baseline for this cost and benefit consideration is existing § 32.3. Although No-Action Letter 13–08, as discussed above, has offered no-action relief that is similar to certain aspects of the relief provided by this final rule, as a no-action letter, it only represents the position of the issuing Division or Office and cannot bind the Commission or other Commission staff.[74] Consequently, the Commission believes that No-Action Letter 13–08 should not set or affect the baseline against which the Commission considers the costs and benefits of this final rule.

In the Proposal, the Commission invited comment on all aspects of its consideration of the costs and benefits associated with the Proposal, and the five factors the Commission is required to consider under CEA section 15(a). The Commission did not receive any comments from the public in this regard.

2. Costs

The Commission has considered whether elimination of part 45 reporting and recordkeeping requirements for trade option counterparties that are Non-SD/MSPs and the Form TO filing requirement could potentially reduce the amount of information available to the Commission to fulfill its regulatory mission, which could be a cost to the markets or the general public. However, the Commission shall remain able to collect sufficient information concerning trade option activities to fulfill its regulatory mission.[75]

The Commission expects that Non-SD/MSPs will continue to maintain records concerning their trade option activities in the ordinary course of business. Additionally, where a Non-SD/MSP enters into a trade option opposite an SD/MSP, the SD/MSP counterparty must continue to comply with all applicable swaps-related recordkeeping and reporting requirements of part 45 with respect to that transaction. In order to facilitate such reporting and recordkeeping by trade option counterparties that are SD/MSPs, the Commission has adopted a requirement in amended § 32.3(b) that a Non-SD/MSP trade option counterparty must obtain an LEI pursuant to § 45.6 and provide such LEI to its counterparty if that counterparty is an SD/MSP. As stated above, this requirement allows an SD/MSP to properly identify its Non-SD/MSP trade option counterparty by that counterparty's LEI in all swap data recordkeeping and reporting.[76] Thus, the Commission may continue to gain insight into any trade option entered into by a Non-SD/MSP opposite a counterparty that is an SD/MSP. Furthermore, under § 32.3(c)(1), Non-SD/MSPs that are clearing members shall continue to comply with part 20 reporting and recordkeeping requirements in connection with their trade option activities. Therefore, the Commission believes that this final rule will not impose any additional costs on the markets themselves, or on the general public.

3. Benefits

The Commission believes that this final rule has the benefit of reducing the regulatory burdens imposed by § 32.3(b), particularly through the elimination of part 45 reporting and recordkeeping requirements for trade option counterparties that are Non-SD/MSPs and the Form TO filing requirement, each of which commenters have described as burdensome.[77]

4. Section 15(a) Factors

Section 15(a) of the CEA requires the Commission to consider the costs and benefits of its actions before promulgating a regulation under the CEA or issuing certain orders.[78] Section 15(a) further specifies that the costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the section 15(a) factors.

a. Protection of Market Participants and the Public

The Commission recognizes that there may be trade-offs between reducing regulatory burdens and ensuring that the Commission has sufficient information to fulfill its regulatory mission. As discussed above, the amendments to § 32.3 reduce some of the regulatory burdens on end users while still maintaining the Commission's insight into the market for trade options, as necessary, to protect the public.

b. Efficiency, Competitiveness, and Financial Integrity of Markets

The Commission believes that the amendments to § 32.3 will reduce reporting and recordkeeping burdens on Non-SD/MSPs in the market for trade options, and will allow them to reallocate resources dedicated to trade options reporting to other more efficient purposes. Despite the deletion of swaps-related recordkeeping requirements in connection with trade options between two Non-SD/MSP counterparties, the Commission shall remain able to collect information concerning trade options as necessary to use in its market oversight role, thereby fulfilling the purposes of the CEA.[79]

The Commission believes that the amendments to § 32.3 will not have any competitiveness impact because the amendments apply to all Non-SD/MSP trade option counterparties in the same way. Although the obligations of SD/MSPs under the amended rule differ from those of Non-SD/MSPs, the Commission does not believe that these differences relate to any factors of competition between the two types of trade option counterparties.

c. Price Discovery

The Commission believes that the amendments to § 32.3 will likely not have a significant impact on price discovery. Given that trade options are not subject to the real-time reporting requirements applicable to other swaps, meaning that current prices of consummated trade options are likely not available to many market participants, the Commission believes any effect on price discovery will be negligible.

d. Sound Risk Management Practices

The Commission believes that this final rule will not have a meaningful adverse effect on the risk management practices of the affected market participants and end users. Although the final rule is intended to reduce some of the regulatory burdens on certain market participants and end users, the Commission expects that where two Non-SD/MSPs enter into a trade option with one another, each participant will continue to maintain records concerning that contract, and its exercise, in its ordinary course of business. Furthermore, the Commission shall

[73] *See* note 35 and accompanying text, *supra.*

[74] *See* 17 CFR 140.99(a)(2). *See also* No-Action Letter 13–08 at 5.

[75] *See* notes 65–67 and accompanying text.

[76] *See* 17 CFR 32.3(b).

[77] *See* notes 39, 42–46, and 59–64, and accompanying text, *supra.*

[78] 7 U.S.C. 19(a).

[79] *See, e.g.,* 7 U.S.C. 5 (stating that it is a purpose of the CEA to deter disruptions to market integrity). *See also* notes 65–67 and accompanying text.

remain able to collect information concerning trade options as necessary to fulfill its regulatory mission.

e. Other Public Interest Considerations

The Commission has not identified any other public interest considerations for this final rule. As noted above, these amendments to § 32.3 will reduce some regulatory burdens while maintaining the Commission's access to information to fulfill its regulatory mission.

B. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (''RFA'') requires that agencies consider whether the rules they issue will have a significant economic impact on a substantial number of small entities and, if so, provide a regulatory flexibility analysis respecting the impact.[80] The final rule, in amending § 32.3, will affect the recordkeeping and reporting requirements for Non-SD/MSP counterparties relying on the trade option exemption in § 32.3. Pursuant to the eligibility requirements in § 32.3(a), such a Non-SD/MSP may be an ECP and/or a commercial party (*i.e.,* a producer, processor, or commercial user of, or a merchant handling the exempt or agricultural commodity that is the subject of the commodity option transaction, or the products or by-products thereof) offering or entering into the trade option solely for purposes related to its business as such. Although the Commission has previously determined that ECPs are not small entities for RFA purposes,[81] the Commission is not in a position to determine whether non-ECP commercial parties affected by the amendments would include a substantial number of small entities on which the rule would have a significant economic impact because § 32.3 does not subject such entities to a minimum net worth requirement, allowing commercial entities of any economic status to enter into exempt trade options. Therefore, pursuant to 5 U.S.C. 604, the Commission offers this regulatory flexibility analysis addressing the impact of the proposal on small entities:

(1) A Statement of the Need for, and Objectives of, the Rule.

The Commission is taking this regulatory action to modify the trade option exemption in § 32.3 in response to comments from Non-SD/MSPs that the regulatory burdens currently imposed by § 32.3 are unnecessarily burdensome. The objective for issuing this rule is to reduce the recordkeeping and reporting obligations for trade option counterparties that are Non-SD/MSPs. As stated above, the legal basis for the rule is the Commission's plenary options authority in CEA section 4c(b).

(2) Summary of the significant issues raised by public comment on the Commission's initial analysis, the Commission's assessment of such issues, and a statement of any changes made as a result of such comments.

The Commission did not receive any comment on the initial regulatory flexibility analysis.

(3) A description of, and an estimate of, the number of small entities to which the rule will apply or an explanation of why no such estimate is available.

The small entities to which the rule may apply are those commercial parties that would not qualify as ECPs and/or that fall within the definition of a ''small entity'' under the RFA, including size standards established by the Small Business Administration.[82] Although more than 300 Non-SD/MSPs have reported their use of trade options to the Commission annually through Form TO, the limited information provided by Form TO is not sufficient for the Commission to determine whether and how many of those Non-SD/MSPs qualify as small entities under the RFA.

(4) A description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.

The rule will relieve trade option counterparties that are Non-SD/MSPs, which may include small entities, from certain recordkeeping and reporting requirements that would otherwise apply to them in connection with their trade option activities, such as part 45 reporting and recordkeeping requirements, and Form TO reporting requirements.

(5) A description of any significant alternatives to the rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the rule on small entities.

A potential alternative to relieving Non-SD/MSPs, which may include small entities, from certain recordkeeping and reporting requirements would be to either (1) not amend the current rule, which would maintain certain recordkeeping and reporting requirements that Non-SD/MSPs have represented are onerous, or (2) create a rule with more specific reporting and recordkeeping parameters for specific entities. The Commission believes that this final rule will have a positive economic impact on Non-SD/MSPs that are small entities because it would generally relax reporting and recordkeeping requirements across all trade option counterparties that are Non-SD/MSPs.

Therefore, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

The purposes of the Paperwork Reduction Act of 1995 (''PRA'') are, among other things, to minimize the paperwork burden to the private sector, ensure that any collection of information by a government agency is put to the greatest possible uses, and minimize duplicative information collections across the government.[83] The PRA applies to all information, ''regardless of form or format,'' whenever the government is ''obtaining, causing to be obtained [or] soliciting'' information, and includes required disclosure to third parties or the public, of facts or opinions, when the information collection calls for answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons.[84] The PRA requirements have been determined to include not only mandatory but also voluntary information collections, and include both written and oral communications.[85] Under the PRA, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number from the Office of Management and Budget (''OMB'').

The Commission believes that this final rule will not impose any new information collection requirements that require approval of OMB under the PRA. As a general matter, the final rule relaxes reporting and recordkeeping

[80] *See* 5 U.S.C. 601 *et seq.*

[81] *See* Opting Out of Segregation, 66 FR 20740, 20743 (Apr. 25, 2001).

[82] *See id. See also* 5 U.S.C. 601(3) (defining ''small business'' to have the same meaning as the term ''small business concern'' in the Small Business Act); 15 U.S.C. 632(a)(1) (defining ''small business concern'' to include an agricultural enterprise with annual receipts not in excess of $750,000); 13 CFR 121.201 (establishing size standards for small business concerns).

[83] *See* 44 U.S.C. 3501.

[84] *See* 44 U.S.C. 3502.

[85] *See* 5 CFR 1320.3(c)(1).

requirements for Non-SD/MSPs entering into trade options in connection with their respective businesses, including the withdrawal and removal of Form TO. Additionally, the Commission has chosen not to adopt as part of this final rule the proposed Notice Requirement, *i.e.,* the proposed $1 Billion Notice and Alternative Notice requirements. Since this final rule does not impose any new information collection requirements, the final rule therefore does not result in the creation of any new information collection subject to OMB review or approval under the PRA. Furthermore, the Commission believes that this final rule will not cause a material net reduction in the current part 45 PRA burden estimates (OMB control number 3038–0096) to the extent that such reduced recordkeeping and reporting burdens for trade option counterparties that are Non-SD/MSPs will be insubstantial when compared to the overall part 45 PRA burden estimate as it relates to Non-SD/MSPs.

Accordingly, since there is no longer a need for Form TO, and since there will not be any other reporting or recordkeeping requirement falling under OMB Control Number 3038–0106, the Commission will file a request with OMB to discontinue OMB Control Number 3038–0106 (Form TO, Annual Notice Filing for Counterparties to Unreported Trade Options).

List of Subjects in 17 CFR Part 32

Commodity futures, Consumer protection, Fraud, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Commodity Futures Trading Commission amends 17 CFR part 32 as follows:

PART 32—REGULATION OF COMMODITY OPTION TRANSACTIONS

■ 1. The authority citation for part 32 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 6c, and 12a, unless otherwise noted.

■ 2. Revise § 32.3 to read as follows:

§ 32.3 Trade options.

(a) Subject to paragraphs (b), (c), and (d) of this section, the provisions of the Act, including any Commission rule, regulation, or order thereunder, otherwise applicable to any other swap shall not apply to, and any person or group of persons may offer to enter into, enter into, confirm the execution of, maintain a position in, or otherwise conduct activity related to, any transaction in interstate commerce that is a commodity option transaction, *provided that:*

(1) Such commodity option transaction must be offered by a person that has a reasonable basis to believe that the transaction is offered to an offeree as described in paragraph (a)(2) of this section. In addition, the offeror must be either:

(i) An eligible contract participant, as defined in section 1a(18) of the Act, as further jointly defined or interpreted by the Commission and the Securities and Exchange Commission or expanded by the Commission pursuant to section 1a(18)(C) of the Act; or

(ii) A producer, processor, or commercial user of, or a merchant handling the commodity that is the subject of the commodity option transaction, or the products or by-products thereof, and such offeror is offering or entering into the commodity option transaction solely for purposes related to its business as such;

(2) The offeree must be a producer, processor, or commercial user of, or a merchant handling the commodity that is the subject of the commodity option transaction, or the products or by-products thereof, and such offeree is offered or entering into the commodity option transaction solely for purposes related to its business as such; and

(3) The commodity option must be intended to be physically settled, so that, if exercised, the option would result in the sale of an exempt or agricultural commodity for immediate or deferred shipment or delivery.

(b) In connection with any commodity option transaction entered into pursuant to paragraph (a) of this section, every counterparty that is not a swap dealer or major swap participant shall obtain a legal entity identifier pursuant to § 45.6 of this chapter if the counterparty to the transaction involved is a swap dealer or major swap participant, and provide such legal entity identifier to the swap dealer or major swap participant counterparty.

(c) In connection with any commodity option transaction entered into pursuant to paragraph (a) of this section, the following provisions shall apply to every trade option counterparty to the same extent that such provisions would apply to such person in connection with any other swap:

(1) Part 20 (Swaps Large Trader Reporting) of this chapter;

(2) Subpart J of part 23 (Duties of Swap Dealers and Major Swap Participants) of this chapter;

(3) Sections 23.200, 23.201, 23.203, and 23.204 of subpart F of part 23 (Reporting and Recordkeeping Requirements for Swap Dealers and Major Swap Participants) of this chapter; and

(4) Section 4s(e) of the Act (Capital and Margin Requirements for Swap Dealers and Major Swap Participants).

(d) Any person or group of persons offering to enter into, entering into, confirming the execution of, maintaining a position in, or otherwise conducting activity related to a commodity option transaction in interstate commerce pursuant to paragraph (a) of this section shall remain subject to part 180 (Prohibition Against Manipulation) and § 23.410 (Prohibition on Fraud, Manipulation, and other Abusive Practices) of this chapter and the antifraud, anti-manipulation, and enforcement provisions of sections 2, 4b, 4c, 4o, 4s(h)(1)(A), 4s(h)(4)(A), 6, 6c, 6d, 9, and 13 of the Act.

(e) The Commission may, by order, upon written request or upon its own motion, exempt any person, either unconditionally or on a temporary or other conditional basis, from any provisions of this part, and the provisions of the Act, including any Commission rule, regulation, or order thereunder, otherwise applicable to any other swap, other than § 32.4, part 180 (Prohibition Against Manipulation), and § 23.410 (Prohibition on Fraud, Manipulation, and other Abusive Practices) of this chapter, and the antifraud, anti-manipulation, and enforcement provisions of sections 2, 4b, 4c, 4o, 4s(h)(1)(A), 4s(h)(4)(A), 6, 6c, 6d, 9, and 13 of the Act, if it finds, in its discretion, that it would not be contrary to the public interest to grant such exemption.

Appendix A to 17 CFR part 32 [Removed]

■ 3. Remove appendix A to 17 CFR part 32.

Issued in Washington, DC, on March 16, 2016, by the Commission.

Christopher J. Kirkpatrick,

Secretary of the Commission.

Note: The following appendices will not appear in the Code of Federal Regulations.

Appendices to Trade Options—Commission Voting Summary, Chairman's Statement, and Commissioner's Statement

Appendix 1—Commission Voting Summary

On this matter, Chairman Massad and Commissioners Bowen and Giancarlo voted in the affirmative. No Commissioner voted in the negative.

Appendix 2—Statement of Chairman Timothy G. Massad

Today, the CFTC has taken another important step to address the concerns of commercial end-users who rely on the

derivatives markets to hedge risk—and who, we should always remember, did not cause the financial crisis. Trade options are a type of commodity option primarily used in the agricultural, energy and manufacturing sectors. Today, the Commission has finalized some amendments to its rules that recognize trade options are different from the swaps that are the focus of the Dodd-Frank reforms. These changes will reduce the burdens on these commercial businesses and allow them to better address commercial risk.

The action we have taken today will eliminate any potential obligation of commercial participants, who are not swap dealers (SD) or major swap participants (MSP), to report trade options to a swap data repository. We also have eliminated the requirement that these entities must report their trade option activities on ''Form TO,'' and we have eliminated Form TO altogether. Further, we have ended the swap-related recordkeeping requirements for these end-users in connection with their trade option activities, although when transacting in trade options with SDs or MSPs, they will need to obtain a legal entity identifier. These changes will reduce burdens and costs for trade option counterparties that are not SDs or MSPs and, in particular, for smaller end-users.

We also have decided not to impose a requirement in the proposed rule that a commercial participant would need to provide notice to the Commission of its trade options activities if such activities have a value of more than $1 billion in any calendar year. This followed careful consideration of the benefits of such information to the Commission, as compared with the difficulties commercial end-users would face in valuating, tracking, and classifying their trade options.

I'm pleased that today we have addressed some reasonable concerns of commercial end-users who are the critical users of the derivatives markets. This is just one of the many actions we have taken in this regard. We will continue to evaluate our rules with an eye towards the concerns of these businesses. I thank my fellow Commissioners for supporting today's action.

Appendix 3—Concurring Statement of Commissioner Sharon Y. Bowen

Our ruling today provides additional clarity for trade options, but I encourage market participants to look at it closely.

Trade options have been caught in a difficult legal bind. Congress sought to ensure that people could not evade our swaps regulations. It did so by both having a very broad definition of a swap, while also limiting this Commission's authority to exempt swaps by regulation.

Fortunately, however, Congress preserved the Commission's authority to exempt trade options, which is the authority we are once again using today. Importantly, this exemption provides additional legal certainty that our interpretations cannot. But we cannot overrule the Commodity Exchange Act with regulations and interpretations; we will always be bound by that statute. Therefore, I want to caution anyone tempted to rely on an interpretation to avoid CFTC jurisdiction when it comes to options.

I fully recognize the difficulty in distinguishing between different types of physical contracts. If a particular contract or an element of a contract serves an economic purpose similar to an option, I believe the best course of action is to exercise caution and not assume your contract is outside of our jurisdiction based on an interpretation. While it may seem fine for a person using these contracts to hope that the interpretation is not called into question, I believe it would be wise, as a backstop, to make sure it also falls within the trade option exemption.

[FR Doc. 2016–06260 Filed 3–18–16; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 14

[Docket No. FDA–2016–N–0001]

Patient Engagement Advisory Committee

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the standing advisory committees' regulations to add the Patient Engagement Advisory Committee.

DATES: This rule is effective March 21, 2016.

FOR FURTHER INFORMATION CONTACT: Letise Williams, Office of Center Director, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, email: *Letise.Williams@fda.hhs.gov,* 301–796–8398.

SUPPLEMENTARY INFORMATION: The Patient Engagement Advisory Committee (the Committee) was established on October 6, 2015 (80 FR 57007, September 21, 2015).

The Committee will provide advice to the Commissioner of Food and Drugs (the Commissioner), or designee, on complex issues relating to medical devices, regulation of devices, and their use by patients.

The Committee will be composed of a core of nine voting members including the Chair. Members and the Chair are selected by the Commissioner or designee from among authorities who are knowledgeable in areas such as clinical research, primary care patient experience, and healthcare needs of patient groups in the United States, or who are experienced in the work of patient and health professional organizations, methodologies for eliciting patient preferences, and strategies for communicating benefits, risks, and clinical outcomes to patients and research subjects. 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 may include one technically qualified member, selected by the Commissioner or designee, who is identified with consumer interests and is recommended by either a consortium of consumer-oriented organizations or other interested persons.

The function of the Committee is to provide advice to the Commissioner on complex issues relating to medical devices, the regulation of devices, and their use by patients. Agency guidance and policies, clinical trial or registry design, patient preference study design, benefit-risk determinations, device labeling, unmet clinical needs, available alternatives, patient reported outcomes, and device-related quality of life or health status issues are among the topics that may be considered by the Committee. The Committee provides relevant skills and perspectives in order to improve communication of benefits, risks, and clinical outcomes, and increase integration of patient perspectives into the regulatory process for medical devices. It performs its duties by identifying new approaches, promoting innovation, recognizing unforeseen risks or barriers, and identifying unintended consequences that could result from FDA policy.

The Committee name and function were established with the Committee charter on October 6, 2015. Therefore, the Agency is amending 21 CFR 14.100 to add the Committee name and function to its current list as set forth in the regulatory text of this document.

Under 5 U.S.C. 553(b)(3)(B) and (d) and 21 CFR 10.40(d) and (e), the Agency finds good cause to dispense with notice and public comment procedures and to proceed to an immediate effective date on this rule. Notice and public comment and a delayed effective date are unnecessary and are not in the public interest as this final rule is merely codifying the addition of the name and function of the Patient Engagement Advisory Committee to reflect the committee charter.

Therefore, the Agency is amending 21 CFR 14.100 to add paragraph (d)(5) as set forth in the regulatory text of this document.

List of Subjects in 21 CFR Part 14

Administrative practice and procedure, Advisory committees, Color additives, Drugs, Radiation protection.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 14 is amended as follows:

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

■ 1. The authority citation for 21 CFR part 14 continues to read as follows:

Authority: 5 U.S.C. App. 2; 15 U.S.C. 1451–1461; 21 U.S.C. 41–50, 141–149, 321–394, 467f, 679, 821, 1034; 28 U.S.C. 2112; 42 U.S.C. 201, 262, 263b, 264; Pub. L. 107–109; Pub. L. 108–155; Pub. L. 113–54.

■ 2. In § 14.100, add paragraph (d)(5) to read as follows:

§ 14.100 List of standing advisory committees.

* * * * *

(d) * * *

(5) *Patient Engagement Advisory Committee.*

(i) Date Established: October 6, 2015.

(ii) Function: Provides advice to the Commissioner on complex issues relating to medical devices, the regulation of devices, and their use by patients. Agency guidance and policies, clinical trial or registry design, patient preference study design, benefit-risk determinations, device labeling, unmet clinical needs, available alternatives, patient reported outcomes, and device-related quality of life or health status issues are among the topics that may be considered by the Committee. The Committee provides relevant skills and perspectives in order to improve communication of benefits, risks, and clinical outcomes, and increase integration of patient perspectives into the regulatory process for medical devices. It performs its duties by identifying new approaches, promoting innovation, recognizing unforeseen risks or barriers, and identifying unintended consequences that could result from FDA policy.

* * * * *

Dated: March 15, 2016.

Jill Hartzler Warner,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2016–06240 Filed 3–18–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 169

[156A2100DD/AAKC001030/A0A501010.999900 253G]

RIN 1076–AF20

Rights-of-Way on Indian Land

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule; extension of effective date and compliance date.

SUMMARY: The Bureau of Indian Affairs (BIA) is announcing the extension of the effective date of the final rule published November 19, 2015 governing rights-of-way on Indian land, which was scheduled to take effect on December 21, 2015, and later extended to March 21, 2016. The final rule will now take effect on April 21, 2016. The BIA is also announcing an extension of the compliance date by which documentation of past assignments must be submitted from the extended date of July 17, 2016, to August 16, 2016. The final rule comprehensively updates and streamlines the process for obtaining Bureau of Indian Affairs (BIA) grants of rights-of-way on Indian land and BIA land, while supporting tribal self-determination and self-governance.

DATES: The effective date of the final rule published on November 19, 2015 (80 FR 72492) is extended until April 21, 2016. The compliance date for submission of documentation of past assignments is extended until August 16, 2016.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action, (202) 273–4680; *elizabeth.appel@bia.gov.*

SUPPLEMENTARY INFORMATION: On November 19, 2015, BIA published a final rule addressing rights-of-way on Indian land and BIA land. *See* 80 FR 72492. In a document published December 21, 2015, BIA extended the effective date of the rule to March 21, 2016, in response to requests from tribes and industry in order to provide additional time to prepare for implementation to ensure compliance. *See* 80 FR 79258. BIA is again extending the effective date of the final rule. This document extends the effective date of the final rule to April 21, 2016, and likewise extends the deadline for providing BIA with documentation of past assignments to August 16, 2016. The substance of the rule remains unchanged and this will be the final extension of the effective date.

The BIA has determined that the extension of the effective date and compliance date without prior public notice and comment is in the public interest because it would allow more time for the public to comply with the rule. This is a rule of agency procedure or practice that is exempt from notice and comment rulemaking under 5 U.S.C. 553(b)(A).

Correction

In FR Rule Doc. No. 2015–28548, published November 19, 2015, at 80 FR 72492, make the following corrections:

■ 1. On page 72537, in the center and right columns, in revised § 169.7, remove the date ''December 21, 2015'' wherever it appears and add in its place ''April 21, 2016''.

■ 2. On page 72537, in the right column, in paragraph (d) of revised § 169.7, remove the date ''April 18, 2016'' and add in its place ''August 16, 2016''.

Dated: March 15, 2016.

Lawrence S. Roberts,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 2016–06269 Filed 3–18–16; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–0183]

Drawbridge Operation Regulation; Trent River, New Bern, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the US 70 (Alfred C. Cunningham) Bridge across the Trent River, mile 0.0, at New Bern, NC. The deviation is necessary to ensure the safety of attendees to the annual Mumfest celebration. This deviation allows the bridge draw span to remain in the closed to navigation position at two hour increments to accommodate the free movement of pedestrians and vehicles during the annual Mumfest celebration.

DATES: This deviation is effective from 9 a.m. on October 8, 2016 to 7 p.m. on October 9, 2016.

ADDRESSES: The docket for this deviation, [USCG–2016–0183] is

available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mrs. Traci Whitfield, Bridge Administration Branch Fifth District, Coast Guard, telephone (757) 398–6629, email *Traci.G.Whitfield@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Event Director for the New Bern Mumfest, with approval from the North Carolina Department of Transportation, owner of the drawbridge, has requested a temporary deviation from the current operating regulations set out in 33 CFR 117.843(a) to accommodate safe passage for pedestrians and vehicles during Mumfest.

The US 70 (Alfred C. Cunningham) Bridge is a double bascule lift bridge and has a vertical clearance in the closed position of 14 feet above mean high water. Under this temporary deviation, the drawbridge will open every two hours, on the hour, from 9 a.m. through 8 p.m. on Saturday, October 8, 2016 and from 9 a.m. through 7 p.m. on Sunday, October 9, 2016. From 8 p.m. on Saturday, October 8, 2016 through 9 a.m. on Sunday, October 9, 2016, the drawbridge will open on signal.

Vessels able to pass under the bridge in the closed position may do so at anytime. Mariners are advised to proceed with caution. The bridge will be able to open for emergencies and there is no alternate route for vessels unable to pass through the bridge in the closed position. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: March 16, 2016.

Hal R. Pitts,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2016–06266 Filed 3–18–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

42 CFR Part 136

RIN 0917–AA12

Payment for Physician and Other Health Care Professional Services Purchased by Indian Health Programs and Medical Charges Associated With Non-Hospital-Based Care

AGENCY: Indian Health Service, HHS.

ACTION: Final rule with comment period.

SUMMARY: The Secretary of the Department of Health and Human Services (HHS) hereby issues this final rule with comment period to implement a methodology and payment rates for the Indian Health Service (IHS) Purchased/Referred Care (PRC), formerly known as the Contract Health Services (CHS), to apply Medicare payment methodologies to all physician and other health care professional services and non-hospital-based services. Specifically, it will allow the health programs operated by IHS, Tribes, Tribal organizations, and urban Indian organizations (collectively, I/T/U programs) to negotiate or pay non-I/T/U providers based on the applicable Medicare fee schedule, prospective payment system, Medicare Rate, or in the event of a Medicare waiver, the payment amount will be calculated in accordance with such waiver; the amount negotiated by a repricing agent, if applicable; or the provider or supplier's most favored customer (MFC) rate. This final rule will establish payment rates that are consistent across Federal health care programs, align payment with inpatient services, and enable the I/T/U to expand beneficiary access to medical care. A comment period is included, in part, to address Tribal stakeholder concerns about the opportunity for meaningful consultation on the rule's impact on Tribal health programs.

DATES: *Effective date:* These final regulations are effective May 20, 2016.

Comment date: IHS will consider comments on this final rule with comment period received at one of the addresses provided below, no later than May 20, 2016.

Compliance and applicability dates: A health program operated by the IHS or by an urban Indian organization through a contract or grant under Title V of the Indian Health Care Improvement Act (IHCIA), Public Law 97–437 must implement the rates specified herein no later than March 21, 2017. The rule will apply to outpatient services provided after May 20, 2016. The rule will apply to inpatient services with an admission that falls on or after the effective date of the rule.

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

- *Electronically.* You may submit electronic comments on this regulation to *http://regulations.gov.* Follow the ''Submit a Comment'' instructions.
- *By regular mail.* You may mail written comments to the following address ONLY: Betty Gould, Regulations Officer, Indian Health Service, Office of Management Services, 5600 Fishers Lane, Mailstop 09E70, Rockville, Maryland 20857. Please allow sufficient time for mailed comments to be received before the close of the comment period.
- *By express or overnight mail.* You may send written comments to the above address.
- *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments before the close of the comment period to the address above.

If you intend to deliver your comments to the Rockville address, please call telephone number (301) 443–1116 in advance to schedule your arrival with a staff member. Comments will be made available for public inspection at the Rockville address from 8:30 a.m. to 5 p.m., Monday–Friday, no later than three weeks after publication of this notice.

Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

FOR FURTHER INFORMATION CONTACT: Ms. Terri Schmidt, Acting Director, Indian Health Service, Office of Resource Access and Partnerships, 5600 Fishers Lane, Mailstop 10E85–C, Rockville, Maryland 20857, telephone (301) 443–2694. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The Consolidated Appropriation Act of 2014 signed by President Obama in January 2014, adopted a new name, Purchased/Referred Care (PRC), for the CHS program. The name change was official with passage of the Fiscal Year (FY) 2014 appropriation. The new name better describes the purpose of the program funding, which is for both purchased care and referred care outside of IHS. The name change does not change the program, and all current policies and practices will continue and is not intended to have any effect on the laws that govern or apply to CHS. IHS will administer PRC in accordance with

all laws applicable to CHS. This final rule will use the term PRC.

I. Background

On December 5, 2014, the Department published proposed regulations in a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (79 FR 72160) to amend the IHS medical regulations at 42 CFR part 136 by adding a new subpart I to apply Medicare payment methodologies to all physician and other health professional services and non-hospital-based services provided through CHS, now PRC, or purchased by urban Indian organizations. In the NPRM, the Department invited the public to comment on the proposed provisions; subsequently, in a **Federal Register** document published on January 14, 2015 (80 FR 1880), the 45-day comment period was extended to February 4, 2015. Under 42 CFR 136.23, when necessary services are not reasonably accessible or available to IHS beneficiaries, the IHS and Tribes are authorized to pay for medical care provided to IHS beneficiaries by non-IHS or Tribal, public or private health care providers, depending on the availability of funds. Similarly, under section 503 of the IHCIA, 25 U.S.C. 1653, urban Indian organizations may refer eligible urban Indians, as defined under section 4 of the IHCIA, to non-I/T/U public and private health care providers and, depending on the availability of funds, may also cover the cost of care. The PRC Program is authorized to pay for medical care provided to IHS beneficiaries by non-IHS or Tribal, public or private health care providers, depending on the availability of funds. I/T/Us reimburse for authorized services at the rates provided by contracts negotiated at the local level with individual providers or according to a provider's billed charges. Given the small market share of individual I/T/U programs, I/T/Us historically have paid rates in substantial excess of Medicare's allowable rates or rates paid by private insurers for the same services. Despite establishing medical priorities to cover the most necessary care, IHS is still unable to provide care to all of its beneficiaries. The demand for PRC care consistently exceeds available funding. IHS recently reported to Congress that IHS and tribal PRC programs denied an estimated $760,855,000 for an estimated 146,928 contract care services needed by eligible beneficiaries in FY 2013. This rule finalizes the Medicare-like rates NPRM and ensures PRC programs reimburse non-hospital services, including physician services, at rates comparable to other federal programs; the savings realized by adopting and implementing this rule will increase patient access to care.

II. Provisions of the Proposed Regulations

a. The Proposed Rule

HHS proposed to amend the regulations at 42 CFR part 136 by adding a new Subpart I to describe the payment methodologies to all physician and health care professional services and all non-hospital-based services that are not covered currently under 42 CFR part 136 subpart D. The final rule would amend the regulation at 42 CFR part 136, by adding a new Subpart I to apply the Medicare payment methodologies to all physician and other health professional services and non-hospital-based services purchased by an IHS or Tribal PRC program, or urban Indian organizations.

b. Summary of Changes in the Final Rule

IHS has added an applicability provision in § 136.201. This provision specifies that the rule applies to IHS-operated PRC programs, urban Indian health programs, and Tribally-operated programs, but only to the extent the Tribally-operated programs opt-in to the requirements of the rule. IHS has added a definition section to the rule at § 136.202. In that section, important terms used in the rule are defined, including Notification of a Claim, Provider, Supplier, Referral and Repricing Agent. In § 136.203 (§ 136.201 of the NPRM), flexibility to allow PRC programs to negotiate rates that are higher than Medicare rates is added. With a narrow exception, the discretion to negotiate rates equal to or less than rates accepted by the provider or supplier's MFC is limited. In the absence of a negotiated amount, the amount the provider or supplier bills the general public is eliminated from the methodology and replaced with the amount the provider or supplier accepts from its MFC.

III. Analysis of and Responses to Public Comments

The Agency received 57 comments from Tribes, Tribal organizations, medical associations, and individuals. The Agency carefully reviewed the submissions by individuals, groups, Indian and non-Indian organizations. IHS did not consider three of these comments, because they were received after the closing date. Of the 54 timely comments, nine commenters supported the proposed regulation; thirty-eight commenters support the proposed regulation with changes; three commenters did not support the proposed regulation; and four commenters provided general comments.

Comment: The majority of commenters support the rule as a positive step toward achieving the goal of expanding PRC rates to non-hospital-based providers and suppliers. Many commenters stated the rule's potential impact on individual providers would be diffuse and de minimus and that the proposed rule would provide an enormous benefit to the IHS and Tribal health care programs. Commenters noted that IHS and Tribal health programs often pay higher payment rates than private health insurers and other Federal programs, such as Medicare and the Veterans Health Administration. In addition, many commenters suggested that implementing rates for non-hospital-based providers will increase the volume of services being sought which will result in providers achieving more volume to offset the decrease in rates.

Response: IHS agrees with the commenters that this rule is necessary and important towards achieving payment parity with other Federal health care programs.

Comment: There were a number of commenters that support the proposed rule, but with changes. Several commenters expressed the view, that as drafted, the proposed rule does not provide enough flexibility to ensure continued access to care through the PRC program. Specifically, many commenters felt that a rigid take-it-or-leave-it rate structure would result in many health care providers refusing to do business with I/T/Us. Many Tribal stakeholders recommended providing Tribal and urban Indian health programs with the option to negotiate higher rates, but to limit maximum rates to what the provider or supplier would accept from non-governmental payers, including insurers, for the same service. Advocates for non-IHS and Tribal providers also recommended incorporating flexibility to negotiate rates.

Response: IHS highlighted concerns about the impact the rule could have on access to care in the preamble to the NPRM and was pleased with the thoughtful responses received. IHS agrees with commenters that more flexibility must be built into the rule. IHS also agrees with Tribal stakeholders that Tribes should be provided more flexibility to negotiate rates that exceed Medicare rates and agrees that controls should be put into place to ensure that negotiated rates remain fair and

reasonable. Section 136.203 provides that if a specific amount has been negotiated with a specific provider or supplier or its agent by the I/T/U, the I/T/U will pay that amount, provided such amount is equal to or better than the provider or supplier's MFC rate, as evidenced by commercial price lists or paid invoices and other related pricing and discount data, to ensure the I/T/U is receiving a fair and reasonable pricing arrangement. Further, the MFC rate does not apply if the I/T/U determines the prices offered to the I/T/U are fair and reasonable and the purchase of the service is otherwise in the best interest of the I/T/U. It will be incumbent on the provider of services to provide the necessary documentation to ensure the rates charged are fair and reasonable.

Comment: In addition to the ability to negotiate rates under the rule, several Tribal stakeholders also want an opt-out clause from the proposed rule for Tribal and urban Indian health care programs. The majority of commenters feel Tribal sovereignty and self-determination must also be respected to allow the Tribes the flexibility to negotiate with providers and determine how best to meet the needs of their community when providing health care. They indicated that flexibility is one of the foundational principles underlying the Indian Self-Determination and Education Assistance Act (ISDEAA) and Tribes and Tribal organizations that negotiate agreements under that Act with the IHS should have the right to choose not to apply this new rule.

Response: IHS agrees with Tribal stakeholders that Tribal health programs should have the option to administer PRC programs outside of the rule. Rather than memorialize this option as an opt-out clause, IHS is finalizing the recommendation as an opt-in provision in section 136.201. The opt-in provision is intended to be consistent with 25 U.S.C. 458aaa–16(e), which provides, with certain exceptions, that Tribes are not subject to rules adopted by the IHS unless they are expressly agreed to by the Tribe in their compact, contract or funding agreement with IHS. Although 25 U.S.C. 458aaa–16(e) only expressly applies to Tribes compacted under Title V of the ISDEAA, IHS is extending opt-in flexibility to Tribes contracted under Title I of the ISDEAA too. IHS is not incorporating a comparable provision allowing urban Indian health programs to opt-in or opt-out of the requirements of the rule. Urban Indian health programs are funded through procurement contracts or grants with IHS, not ISDEAA contracts, and the principles underlying self-determination and the opt-in flexibility do not extend to such agreements.

Comment: One commenter believes that reducing physician payments will provide a disincentive to participate in the PRC program and will result in less beneficiary access to care.

Response: IHS acknowledges the implementation of rates could impact access to care, and believe sufficient language has been incorporated to ensure that beneficiary access to care is not compromised.

Comment: One commenter believes the rule would magnify the existing disparity between the average ambulance provider's total costs and their reimbursement.

Response: The implementation of the rule is not intended to require a provider or supplier to incur a financial loss. To the extent the Medicare rate structure results in the provider or supplier incurring a financial loss, the flexibility added to the final rule should permit providers and suppliers to negotiate fair and reasonable rates with I/T/Us.

Comment: The majority of commenters stated that IHS should also engage in provider outreach and monitoring to ensure the rule is effectively implemented. Further, once the final rule is issued, the IHS, in collaboration with Tribes, should develop and issue a ''Dear provider letter'' for all I/T/Us to educate their network of providers regarding this regulation. Commenters believe that education and outreach to providers will be a critical component in successfully implementing the rule.

Response: IHS agrees. IHS took similar steps when it promulgated the hospital-based rate under 42 CFR part 136 subpart D. IHS intends to work with Tribes to educate the providers that participate in IHS and Tribal PRC programs.

Comment: One commenter indicates that some IHS Area Offices utilize case management to better monitor the services that are being purchased through PRC. The commenter proposed that IHS Area Offices have a medical physician on staff for utilization review.

Response: IHS agrees with the commenter but the proposal offered is beyond the scope of this final rule.

Comment: One commenter is concerned that the amount a provider ''bills the general public'' for the same service is too vague. The term ''general public'' is subject to multiple interpretations. The commenter recommended limiting payment to the amount the provider ''accepts as payment for the same service from nongovernmental entities, including insurance providers.''

Response: IHS agrees with the commenter that the proposed language may be open to more than one interpretation. To avoid multiple interpretations and to align this subsection with others changes made to § 136.203, the reference to ''bills the general public'' has been deleted and provisions have been inserted providing for payment not to exceed the provider or supplier's MFC rate, as evidenced by commercial price lists or paid invoices and other related pricing and discount data to ensure that the I/T/U is receiving a fair and reasonable pricing arrangement. Additionally, in the event that a Medicare rate does not exist for an authorized item or service, and no other payment methodology provided by the rule is applicable, IHS has included a provision in 136.203(a)(3) that authorizes payment at 65% of authorized charges.

Comment: The majority of commenters believe the rule should not imply that professional services are never covered by the existing PRC regulations. The current PRC rate regulations apply to ''all Medicare participating hospitals, which are defined for purposes of that subpart to include all departments and provider-based facilities of hospitals.'' The commenters believe this includes physicians and other health care professionals if they are employed directly by the hospital or even ''under arrangements.''

Response: The PRC rate regulations at part 136 subpart D apply to hospitals and critical access hospitals pursuant to section 1866(a)(1)(U) of the Social Security Act which requires providers to agree to provide services under the Contract Health Services, now PRC, program or other programs funded by IHS through the execution of a Medicare participating provider agreement. The agreement executed by hospitals and critical access hospitals under section 1866 does not govern payment for professional services under Medicare, even for services provided by physician employees of a hospital or for ''billing under arrangements,'' and, accordingly, does not generally govern the acceptance of payment for services under Medicare Part B. To eliminate any confusion, the terms Supplier and Provider have been defined in § 136.201 to only include entities that are not subject to Part 136 Subpart D. Supplier means a physician or other practitioner, a facility, or other entity (other than a provider) not already governed by or subject to 42 CFR part 136 subpart D, that furnishes items or services under

this new Subpart. Provider, as used in this subpart only, means a provider of services not governed by or subject to 42 CFR part 136 subpart D, and may include a skilled nursing facility, comprehensive outpatient rehabilitation facility, home health agency, or hospice program.

Comment: The majority of commenters requested training for Tribes. Many commenters suggested IHS develop a training and technical assistance initiative to prepare I/T/U sites to implement the rule. Tribes expressed concern about the lack of training and technical assistance associated with the implementation of the regulation for Payment to Medicare-participating hospitals for authorized CHS (42 CFR 136.30). IHS should work with several software products the I/T/Us can use and commenters recommended that IHS negotiate a volume discount for Tribes to purchase the software.

Response: IHS agrees that training is necessary to ensure that the rule is implemented properly and effectively. Many suggestions for training, however, are beyond the scope of this final rule and will be addressed through subsequent communication with Tribes.

Comment: Commenters indicated that IHS should also develop and implement a process in consultation with Tribes to monitor and report on the success of the rule once it is implemented.

Response: IHS agrees that monitoring the effectiveness of the rule is important. Obtaining data from programs that are implementing the rule is essential to determining its success; however, reporting requirements exceed the scope of this final rule.

Comment: The majority of commenters stated that the proposed rule would have significant Tribal implications and substantial direct effects on one or more Indian Tribes. As a result, pursuant to the HHS Tribal Consultation Policy, Tribal consultation is required. Tribes stated in their comments that they welcomed the opportunity to comment on the proposed rule through the notice and public comment process required by the Administrative Procedure Act, but they stated that the Director of the IHS must also engage in Tribal consultation on the proposed rule before any action is taken to finalize this rule.

Response: IHS consulted with Tribes, during listening sessions and other meetings, on whether Tribes thought IHS should pursue applying PRC rates for non-hospital-based services. It has been noted that while these interactions indicated that regulations may have been a good idea, the level of discussion did not get into the complexities of developing a regulation and how such regulations would impact Tribes given the variation in access to specialty care and the number of hospitals across the Indian health system. IHS recognizes that specific provisions of the rule were not developed in consultation with Tribes. In the development of this final rule, however, IHS has collaborated significantly with the Director's PRC Workgroup. The PRC workgroup is composed of technical experts who have a deep understanding of the complexities of administering PRC programs. The rule has been revised to provide the flexibility many Tribal stakeholders have requested, and as finalized, will not apply to any Tribally-operated PRC program until it elects to opt-in in accordance with § 136.201. IHS recognizes that these steps may not relieve all concerns regarding Tribal consultation. Accordingly, IHS is also publishing this final rule with a comment period in which to receive additional feedback from stakeholders, to determine whether any revisions should be made to the rule.

Comment: One commenter recommended IHS pursue legislation, not a regulation.

Response: Regulations (or rules) implement the public policy of enacted legislation and establish specific requirements. IHS bases its authority on 42 U.S.C. 2003 to establish the methodology and payment rates for the IHS PRC.

Comment: One commenter is concerned that there is nothing explicit in the regulation that prevents the provider from avoiding the Medicare rate by choosing not to submit a claim at all, and seeking redress from the patient directly. Because the Medicare rates may be substantially lower than the provider's billed rate, the providers might avoid a PRC claim entirely and bill the patient for the full amount. The commenter is also concerned that more patients will be taken to collection agencies when they cannot afford to pay when the provider bills the patients directly.

Response: IHS recognizes that the rule does require providers to accept payment from PRC programs and understands that this may on occasion result in patients incurring financial responsibility. IHS beneficiaries already incur financial responsibility for care that IHS cannot cover. In FY 2013, PRC denied an estimated $760,855,000 for an estimated 146,928 services needed by eligible American Indian and Alaska Native individuals. Those numbers only account for IHS administered programs. IHS notes incurring financial responsibility may be avoided by obtaining a PRC authorized referral from IHS prior to treatment. If a referral is issued by IHS, it means that the provider has accepted IHS payment rates, and the patient may not be charged for the service. A definition section was added to the rule at § 136.202 and defined Referral there to clarify for beneficiaries and providers when the requirements for payment acceptance have been triggered. IHS also added a definition for Notification of a Claim, as it too triggers payment acceptance under the rule. Finally, the definition of Repricing Agent was moved to the newly created definition section.

Comment: One commenter stated there needs to be some oversight by either Centers for Medicare & Medicaid Services or other appropriate agencies written into the regulation that includes a way in which all Medicare-participating medical providers have to, by law, accept PRC patients and accept the rates established by 42 CFR part 136 subpart D.

Response: No changes will be made as a result of this comment. IHS is promulgating this rule pursuant to its own rulemaking authority, under which there is no basis for another agency to enforce compliance.

Comment: The majority of commenters state that any changes made, or proposed in the PRC program, must be careful to not adversely impact the effectiveness of the PRC programs. Any change to improve the efficiency or financial operations of the PRC program must be carefully evaluated to ensure that they do not impose additional administrative or financial burdens on the PRC program and the patients they serve. A meaningful and well-intentioned change could actually restrict access and cost the program more resources than it would save.

Response: IHS believes these concerns have been addressed through the flexibilities which have been added to the final rule, the training IHS intends to offer to PRC administrators, and the outreach and education IHS intends to provide to PRC-participating providers and suppliers.

Comment: Some commenters expressed serious concern regarding the long delay between publication of the proposed rule and issuing the final rule on limiting charges for services furnished by Medicare participating inpatient hospitals to individuals eligible for care purchased by Indian health programs, as provided for by Sec. 506 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. Once this final rule is adopted,

they stated, it should be implemented in a reasonable but expedient manner.

Response: IHS acknowledges the concern and provides that the rule will be effective 60 days from publication and applicable to services provided after the effective date. The rule will apply to outpatient services provided after the effective date of the rule. The rule will apply to inpatient services with an admission that falls on or after the effective date of the rule. However, IHS also recognizes programs may not be fully equipped to implement the rule when it becomes effective. In accordance with 42 CFR 136.201(c), Tribal health programs may choose to opt-in to the rule immediately, or whenever they are able to fully implement the rule. A health program operated by the IHS or by an urban Indian organization through a contract or grant under Title V of the IHCIA, Public Law 94–437 should implement the rule as soon as possible, but must implement the rates specified herein no later than one year from the date of publication in the **Federal Register**.

IV. Collection of Information Requirements

These regulations do not impose any new information collection requirements. Specifically, federal acquisition regulations already govern the collection of contractor pricing data and agency regulations and procedures already govern the collection of information necessary to process claims. The IHS will use the IHS purchase order form number IHS–843 for collection of information. OMB No. 0917–0002.

V. Regulatory Impact Statement

The IHS has examined the impact of this final rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Order 12866 directs 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). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any one year). An April 2013 study released by the Government Accountability Office (GAO) found that if Federal PRC programs had paid Medicare rates for physicians' services in 2010, they could have realized an estimated $32 million in annual savings to pay for additional services.

The GAO formulated its estimate using actual IHS data, which it obtained from the IHS fiscal intermediary. The GAO narrowed those claims to payments for physician and other nonhospital services. These are the same services at issue in this final rule. Since IHS is the payer of last resort, the GAO excluded services where IHS would not have had primary responsibility, such as services covered by the patient's insurance or another third party payer. The GAO also excluded nonhospital services that were not covered by the Medicare Physician Fee Schedule, as well as anesthesiologists, based upon lack of information to determine comparable Medicare rates.

Once the GAO had isolated the necessary IHS payment data, the GAO compared the IHS payments to the corresponding rate on the 2010 Medicare Physician Fee Schedule. The GAO adjusted the payment rates according to the physician's approximated geographic location and the service setting, based upon Medicare practice. The GAO also compared the IHS payments to those that would have been made by private insurers using a commercial claims and encounters database. The GAO specifically compared payments for services occurring in the same county to account for any variation in payments due to location, by averaging the rate paid by the private insurers for a service in each county and comparing that average rate with IHS payments in the same county.

The GAO evaluated the reliability of the data it had relied upon in its estimates, including the IHS claims data, the Medicare Physician Fee Schedule data, and the private insurance database. The GAO reviewed the documentation and discussed the database with officials it considered knowledgeable in this area. The GAO also performed data reliability checks to test the internal consistency and reliability of the data. The GAO determined that the data was sufficiently reliable for its purposes after taking these steps.

IHS agrees with the methodology utilized by the GAO in its report to select, verify, and compare the necessary elements of the GAO estimate. While the GAO study did not consider the additional flexibility added to this final rule at the request of Tribes or payments made to anesthesiologists, IHS anticipates that most PRC programs and PRC payments under this final rule will closely follow the policy that the GAO considered when developing its study. For this reason, the GAO estimate from the April 2013 study is applicable to the regulatory impact analysis of the final rule.

In 2014, IHS performed an analysis similar to the GAO study with claims data from the IHS fiscal intermediary for fiscal year (FY) 2012. Instead of analyzing the entire IHS system, as GAO had done with data from 2010, IHS focused on the potential impact to IHS PRC programs in the states of North and South Dakota. IHS was able to closely review the specific contracts in place between IHS and physicians in these two states by narrowing the geographic focus of its analysis. IHS found that North Dakota providers who had an agreement in place with IHS during FY 2012 would have received, on average, 31% less if payment rates for professional services and non-hospital-based care had been capped at the Medicare rate, while South Dakota providers would have experienced the opposite and received, on average, 31% more. It is important to note that, of those providing PRC services in FY 2012, only 15–16% had an agreement with IHS in either of these two states. The remaining 84–85% did not have an agreement in place with IHS in FY 2012 and IHS estimates that these providers would have been paid, on average, 35% less in North Dakota and 52% less in South Dakota if the payments had been capped at Medicare rates. While most of the providers without an agreement would have been paid less under this analysis, IHS estimated that 26% in North Dakota and 21% in South Dakota would have received higher payments, because their billed charges were less than the Medicare rates.

Overall, IHS estimated that in FY2012, it could have saved $2,074,638.28 in North Dakota and $5,498,089.09 in South Dakota if PRC payments for professional services and non-hospital-based care had been capped at the Medicare rates. IHS noted that referral numbers and authorizations for payment are dependent on appropriation levels for each year. The estimates provided by the IHS study were based upon the specific factors for FY 2012, including rates and funding levels in place at that point in time. The IHS analysis looked closely at the potential impact on providers in these two states, but it did not perform all of the detailed steps taken by the GAO to determine potential savings. Based upon its limited analysis, though, IHS determined that capping the PRC rates for professional services and non-hospital-based care would likely result in savings for IHS PRC programs.

Both the GAO study and the IHS analysis note the possible consequences of this policy change. The GAO study determined that providers overall would receive less if the payments for professional services and non-hospital-based care are capped at the applicable Medicare rates. The IHS analysis acknowledged that most providers, especially those without a contract with IHS, would receive less under such a policy change, but IHS also found that some providers would receive more per individual claim. During the interview portion of its study, the GAO spoke with a few providers who already had contracts with IHS to be paid at or below Medicare rates. IHS also estimated that adverse impacts on providers could be mitigated by the additional referrals that would result from the PRC savings. In addition to the providers, the GAO study noted possible concerns regarding access to care for patients. The IHS analysis did not delve into this particular issue. However, neither the GAO study nor the IHS analysis anticipated the additional flexibility that would be built into this final rule, as part of the policy change. If IHS finds that providers in particular areas are choosing not to participate based upon the change in policy and the supply of providers in that area is not sufficient to meet demand, thereby impacting patient access to care, IHS has certain flexibility to negotiate higher rates under this final rule to ensure that patients are not negatively impacted. Tribally-operated PRC programs will have the same flexibility, if they choose to opt-in to this final rule. IHS beneficiaries as a whole will be able to benefit from the change in policy, since the savings will allow IHS to provide additional PRC services.

Although the GAO study and the IHS analysis did not include other types of non-hospital services or funding that goes to Tribal PRC programs, particular Tribes and tribal organizations may decide not to opt-in to this final rule. Even if all of the Tribally-operated PRC programs choose to participate, IHS estimates that the increase in purchasing power brought about by this final rule would be unlikely to exceed $100 million annually. Furthermore, if any PRC programs utilize the additional flexibility added to this final rule and choose to negotiate rates above the applicable Medicare rates, the impact would be even less likely to exceed $100 million annually. Office of Management and Budget (OMB) has determined that this is a significant regulatory action under Executive Order 12866.

The Secretary has determined this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the RFA, 5 U.S.C. 601–612. The final rule will not cause significant economic impact on health care providers, suppliers, or entities since only a small portion of the business of such entities concern IHS beneficiaries. The April 2013 study released by the GAO found that of the physicians sampled, the PRC program represented a small portion of their practice and was not a significant source of revenue. Although the sampling of physicians was small, all of the sampled physicians were in the top 25% in terms of volume of paid services covered by PRC. IHS believes the sample to be representative of higher volume practitioners currently providing services paid for by PRC. Accordingly, pursuant to 5 U.S.C. 605(b), the final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits before issuing any rule whose requirements mandate expenditure in any one year by State, local, or Tribal governments, in the aggregate, or by the private sector, of $141 million. This proposal would not impose substantial Federal mandates on State, local or Tribal governments or private sector.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by OMB.

List of Subjects in 42 CFR Part 136

American Indian, Alaska Natives, Health, Medicare.

Dated: March 11, 2016.

Mary Smith,

Principal Deputy Director, Indian Health Service.

Dated: March 11, 2016.

Sylvia M. Burwell,

Secretary.

For the reasons set forth in the preamble, the Indian Health Service is amending 42 CFR part 136 as set forth below:

PART 136—INDIAN HEALTH

■ 1. The authority citation for part 136 continues to read as follows:

Authority: 25 U.S.C. 13; sec. 3, 68 Stat. 674 (42 U.S.C., 2001, 2003); Sec. 1, 42 Stat. 208 (25 U.S.C. 13); 42 U.S.C. 2001, unless otherwise noted.

■ 2. Add subpart I, consisting of §§ 136.201 through 136.204, to read as follows:

Subpart I—Limitation on Charges for Health Care Professional Services and Non-Hospital-Based Care

Sec.
136.201 Applicability.
136.202 Definitions.
136.203 Payment for provider and supplier services purchased by Indian health programs.
136.204 Authorization by urban Indian organizations.

Subpart I—Limitation on Charges for Health Care Professional Services and Non-Hospital-Based Care

§ 136.201 Applicability.

The requirements of this Subpart shall apply to:

(a) Health programs operated by the Indian Health Service (IHS).

(b) Health programs operated by an urban Indian organization through a contract or grant under Title V of the Indian Health Care Improvement Act (IHCIA), Public Law 94–437, as amended.

(c) Health programs operated by an Indian Tribe or Tribal organization pursuant to a contract or compact with the IHS under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 *et seq.*), provided that the Indian Tribe or Tribal organization has agreed in such contract or compact to be bound by this Subpart pursuant to 25 U.S.C. 450l and 458aaa–16(e), as applicable.

§ 136.202 Definitions.

For purposes of this subpart, the following definitions apply.

Notification of a claim means, for the purposes of part 136, and also 25 U.S.C. 1621s and 1646, the submission of a claim that meets the requirements of 42 CFR 136.24.

(1) Such claims must be submitted within the applicable time frame specified by 42 CFR 136.24, or if applicable, 25 U.S.C. 1646, and include information necessary to determine the relative medical need for the services and the individual's eligibility.

(2) The information submitted with the claim must be sufficient to:

(i) Identify the patient as eligible for IHS services (*e.g.*, name, address, home or referring service unit, Tribal affiliation),

(ii) Identify the medical care provided (*e.g.*, the date(s) of service, description of services), and

(iii) Verify prior authorization by the IHS for services provided (*e.g.*, IHS purchase order number or medical referral form) or exemption from prior

authorization (*e.g.,* copies of pertinent clinical information for emergency care that was not prior-authorized).

(3) To be considered sufficient notification of a claim, claims submitted by providers and suppliers for payment must be in a format that complies with the format required for submission of claims under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*) or recognized under section 1175 of such Act (42 U.S.C. 1320d–4).

Provider, as used in this subpart only, means a provider of services not governed by or subject to 42 CFR part 136 subpart D, and may include, but not limited to, a skilled nursing facility, comprehensive outpatient rehabilitation facility, home health agency, or hospice program.

Referral means an authorization for medical care by the appropriate ordering official in accordance with 42 CFR part 136 subpart C.

Repricing agent means an entity that offers an IHS, Tribe or Tribal organization, or urban Indian organization (I/T/U) discounted rates from non-I/T/U public and private providers as a result of existing contracts that the non-I/T/U public or private provider may have within the commercial health care industry.

Supplier, as used in this subpart only, means a physician or other practitioner, a facility, or other entity (other than a provider) not already governed by or subject to 42 CFR part 136 subpart D, that furnishes items or services under this Subpart.

§ 136.203 Payment for provider and supplier services purchased by Indian health programs.

(a) Payment to providers and suppliers not covered by 42 CFR part 136 subpart D, for any level of care authorized under part 136, subpart C by a Purchased/Referred Care (PRC) program of the IHS; or authorized by a Tribe or Tribal organization carrying out a PRC program of the IHS under the Indian Self-Determination and Education Assistance Act, as amended, Public Law 93–638, 25 U.S.C. 450 *et seq.;* or authorized for purchase under § 136.31 by an urban Indian organization (as that term is defined in 25 U.S.C. 1603(h)) (hereafter collectively ''I/T/U''), shall be determined based on the applicable method in this section:

(1) If a specific amount has been negotiated with a specific provider or supplier or its agent by the I/T/U, the I/T/U will pay that amount, provided that such amount is equal to or better than the provider or supplier's Most Favored Customer (MFC) rate, as evidenced by commercial price lists or paid invoices and other related pricing and discount data to ensure that the I/T/U is receiving a fair and reasonable price. The MFC rate limitation shall not apply if:

(i) The prices offered to the I/T/U are fair and reasonable, as determined by the I/T/U, even though comparable discounts were not negotiated; and

(ii) The award is otherwise in the best interest of the I/T/U, as determined by the I/T/U.

(2) If an amount has not been negotiated in accordance with paragraph (a)(1) of this section, the I/T/U will pay the lowest of the following amounts:

(i) The applicable Medicare payment amount, including payment according to a fee schedule, a prospective payment system or based on reasonable cost (''Medicare rate'') for the period in which the service was provided, or in the event of a Medicare waiver, the payment amount will be calculated in accordance with such waiver.

(ii) An amount negotiated by a repricing agent if the provider or supplier is participating within the repricing agent's network and the I/T/U has a pricing arrangement or contract with that repricing agent.

(iii) An amount not to exceed the provider or supplier's MFC rate, as evidenced by commercial price lists or paid invoices and other related pricing and discount data to ensure that the I/T/U is receiving a fair and reasonable price, but only to the extent such evidence is reasonably accessible and available to the I/T/U.

(3) In the event that a Medicare rate does not exist for an authorized item or service, and no other payment methodology provided for in paragraph (a)(1) or (2) of this section are accessible or available, the allowable amount shall be deemed to be 65% of authorized charges.

(b) Coordination of benefits and limitation on recovery: If an I/T/U has authorized payment for items and services provided to an individual who is eligible for benefits under Medicare, Medicaid, or another third party payer—

(1) The I/T/U is the payer of last resort under 25 U.S.C. 1623(b);

(2) If there are any third party payers, the I/T/U will pay the amount for which the patient is being held responsible after the provider or supplier of services has coordinated benefits and all other alternate resources have been considered and paid, including applicable co-payments, deductibles, and coinsurance that are owed by the patient;

(3) The maximum payment by the I/T/U will be only that portion of the payment amount determined under this section not covered by any other payer;

(4) The I/T/U payment will not exceed the rate calculated in accordance with paragraph (a) of this section (plus applicable cost sharing); and

(5) When payment is made by Medicaid it is considered payment in full and there will be no additional payment made by the I/T/U to the amount paid by Medicaid.

(c) Authorized services: Payment shall be made only for those items and services authorized by an I/T/U consistent with this part 136 or section 503(a) of the IHCIA, Public Law 94–437, as amended, 25 U.S.C. 1653(a).

(d) No additional charges:

(1) If an amount has not been negotiated under paragraph (a)(1) of this section, the health care provider or supplier shall be deemed to have accepted the applicable payment amount under paragraph (a)(2) of this section as payment in full if:

(i) The services were provided based on a Referral, as defined in § 136.202; or,

(ii) The health care provider or supplier submits a Notification of a Claim for payment to the I/T/U; or

(iii) The health care provider or supplier accepts payment for the provision of services from the I/T/U.

(2) A payment made and accepted in accordance with this section shall constitute payment in full and the provider or its agent, or supplier or its agent, may not impose any additional charge—

(i) On the individual for I/T/U authorized items and services; or

(ii) For information requested by the I/T/U or its agent or fiscal intermediary for the purposes of payment determinations or quality assurance.

(e) IHS will not adjudicate a notification of a claim that does not contain the information required by § 136.24 with an approval or denial, except that IHS may request further information from the individual, or as applicable, the provider or supplier, necessary to make a decision. A notification of a claim meeting the requirements specified herein does not guarantee payment.

(f) No service shall be authorized and no payment shall be issued in excess of the rate authorized by this section.

§ 136.204 Authorization by an urban Indian organization.

An urban Indian organization may authorize for purchase items and services for an eligible urban Indian as those terms are defined in 25 U.S.C. 1603(f) and (h) according to section 503 of the IHCIA and applicable regulations.

Services and items furnished by physicians and other health care professionals and non-hospital-based entities shall be subject to the payment methodology set forth in § 136.203.

[FR Doc. 2016–06087 Filed 3–18–16; 8:45 am]

BILLING CODE 4165–16–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket Nos. 10–51 and 03–123; FCC 16–25]

Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission modifies its four-year compensation rate plan for Video Relay Service (VRS), adopted in 2013, by temporarily ''freezing'' the rate of compensation paid from the Interstate Telecommunications Relay Services Fund (TRS Fund) to VRS providers handling 500,000 or fewer monthly minutes and directs the TRS Fund administrator to pay compensation to such providers at a rate of $5.29 per VRS minute for a 16-month period.

DATES: Effective April 20, 2016.

FOR FURTHER INFORMATION CONTACT: Robert Aldrich, Consumer and Governmental Affairs Bureau, at 202–418–0996 or email *Robert.Aldrich@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Structure and Practices of the Video Relay Service Program and Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* Report and Order, document FCC 16–25, adopted on March 1, 2016, and released on March 3, 2016, in CG Docket Nos. 10–51 and 03–123. The full text of document FCC 16–25 will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. Document FCC 16–25 can also be downloaded in Word or Portable Document Format (PDF) at: *https://www.fcc.gov/general/disability-rights-office-headlines.* 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).

Final Paperwork Reduction Act of 1995 Analysis

Document FCC 16–25 does not contain new or modified information collection requirements subject to the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Congressional Review Act

The Commission will not send a copy of FCC 16–25 pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the Commission adopted no rules therein, as defined in 5 U.S.C. 804(3). Rather, the Commission modified the rates applicable to compensation paid to VRS providers from the TRS Fund.

Synopsis

1. In 2013, the Commission adopted a Report and Order amending its telecommunications relay service (TRS) rules to improve the structure, efficiency, and quality of the VRS program, reduce the risk of waste, fraud, and abuse, and ensure that the program makes full use of advances in commercially-available technology. *Structure and Practices of the Video Relay Services Program, Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CG Docket Nos. 10–51, 03–123, Report and Order and Further Notice of Proposed Rulemaking, published at 78 FR 40407, July 5, 2013 (*VRS Reform Order*), and 78 FR 40582, July 5, 2013 (*VRS Reform FNPRM*), *aff'd in part and vacated in part sub nom. Sorenson Communications, Inc.* v. *FCC,* 765 F.3d 37 (D.C. Cir. 2014) (*Sorenson*). The *VRS Reform Order* established the rates at which VRS providers are compensated from the Interstate Telecommunications Relay Service Fund (TRS Fund) for a four-year period beginning July 1, 2013, and adopted structural reforms designed to establish a more level playing field for all VRS providers.

2. Pursuant to the TRS rules, VRS providers submit the number of minutes of service they provide to the TRS Fund administrator on a monthly basis and are compensated for these minutes based on rates set annually by the Commission. The Commission currently uses a three-tier compensation rate structure that allows smaller providers to receive more compensation per minute, on average, than larger providers. A tiered compensation rate structure allows providers to earn a higher compensation rate on the initial minutes of service provided each month. Pursuant to the three-tiered VRS rate structure as modified in the *VRS Reform Order,* the Tier I rate (the highest rate) applies to a provider's first 500,000 monthly VRS minutes, the Tier II rate applies to a provider's second 500,000 monthly minutes, and the Tier III rate (the lowest rate) applies to monthly minutes in excess of 1,000,000. As a result, smaller providers receive more compensation per minute, on average, than larger providers.

3. In the *VRS Reform Order,* the Commission recognized a need to better align VRS compensation rates with the allowable costs of this service, pending a further determination as to VRS compensation methodology. To that end, and as an alternative to immediately reducing rates to a level based on average costs, the Commission adopted a four-year schedule that gradually adjusts the VRS compensation rates downward every six months, beginning July 1, 2013, and ending June 30, 2017. (In document FCC 16–25, the term ''average,'' when used to describe multiple providers' costs, means an average of provider costs weighted in proportion to each provider's total minutes.) Subsequently, in a Further Notice of Proposed Rulemaking released November 3, 2015, the Commission proposed to temporarily freeze the compensation rates of providers handling 500,000 or fewer monthly minutes. *Structure and Practices of the Video Relay Services Program, Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CG Docket Nos. 10–51, 03–123, Further Notice of Proposed Rulemaking, published at 80 FR 72029, November 18, 2015, (*VRS Rate Freeze FNPRM*).

4. The Commission adopts its proposal to temporarily ''freeze'' the compensation rates of providers handling 500,000 or fewer monthly minutes (the smallest VRS providers) and directs the TRS Fund administrator to pay compensation, subject to a possible true-up, at a compensation rate of $5.29 per VRS minute for the period from July 1, 2015, to October 31, 2016.

This rate is applicable to a VRS provider in any month for which the provider submits 500,000 or fewer compensable VRS minutes for compensation from the TRS Fund.

5. The record of this proceeding confirms that for each of the smallest VRS providers, the per-minute costs incurred or projected by the provider in calendar years 2015 and 2016, respectively, are higher than the ''blended'' compensation rate applicable to that provider in that year under the four-year schedule adopted in the *VRS Reform Order.* (A provider's ''blended'' compensation rate for a calendar year is the average of the Tier I rates applicable in the first and second halves of the calendar year, weighted by the provider's projected minutes for each half.) The individual cost information filed by the smallest VRS providers, which the Commission finds to be credible, while updating the cost data previously filed with Rolka Loube, confirms Rolka Loube's initial assessment that the deficits incurred by the smallest VRS providers may be jeopardizing their continuation of service. Further, the smallest VRS providers credibly argue that available financing arrangements will not permit them to maintain operations indefinitely in accordance with the Commission's minimum TRS standards while continuing to operate at a loss. Therefore, the Commission finds that, absent rate relief, it is likely that the smallest providers either (1) will be unable to maintain their operations in 2016 or (2) will be unable to continue to grow their operations significantly in the direction of reaching optimum levels of efficiency. As a result, the Commission's objective to offer such providers ''a reasonable opportunity to . . . reach the optimum scale to compete effectively'' may be undermined. *See VRS Reform Order,* 78 FR 40602, July 5, 2013.

6. As the Commission has previously recognized, the presence of diverse providers can spur improvements in the availability, efficiency, and functional equivalence of VRS. Further, public interest considerations favor the grant of interim relief. The record confirms that certain service features offered by small VRS providers may be uniquely helpful in advancing the goal of functionally equivalent service for certain subsets of VRS consumers. Specialized features offered by the smallest VRS providers include Spanish language VRS and emergency alert functions for schools for the deaf.

7. Based on these various considerations, the Commission concludes that it should temporarily halt the scheduled reduction in the VRS compensation rates applicable to the smallest VRS providers, consistent with its objective in the *VRS Reform Order* to permit smaller providers a reasonable opportunity to grow and to attain efficiencies comparable to those of larger VRS providers. Accordingly, the Commission adopts its proposal in the *VRS Rate Freeze FNPRM* to apply a rate of $5.29 per minute to compensation claimed by the smallest VRS providers for a limited period. This rate, which was in effect prior to July 1, 2015, is lower than the smallest VRS providers' average projected allowable costs for 2015 but higher than their average projected allowable costs for 2016. It is also lower than any individual provider's allowable costs for 2015. The Commission concludes that application of a $5.29 per minute compensation rate to the smallest VRS providers will generally provide a reasonable level of support for the operations of the smallest VRS providers and will not risk providing significant overcompensation for such providers. In addition, application of this rate to the smallest VRS providers, in lieu of the previously scheduled rates, will not impose a heavy cost burden on the TRS Fund.

8. Regarding the period for which this rate freeze should apply, the Commission adopts the proposal in the *VRS Rate Freeze FNPRM* for an adjusted compensation rate of $5.29 per minute to be effective for 16 months, beginning retroactively on July 1, 2015, the beginning of the current Fund Year, and ending on October 31, 2016. This 16-month rate freeze allows the smallest VRS providers the opportunity to achieve market share growth and improvements in efficiency while benefitting from further implementation of structural reforms—such as the establishment of the ACE platform, which will address interoperability and other matters and is scheduled for launch this year.

9. While rates should not be frozen indefinitely, the Commission agrees with a number of commenting parties that, in order to avoid subjecting the smallest VRS providers to a sudden drop in compensation upon the expiration of the 16-month period, the compensation rate for the smallest providers should be adjusted downward in the same increments previously directed in the *VRS Reform Order.* In other words, for the smallest VRS providers the ''glide path'' originally established in the *VRS Reform Order* will resume after a 16-month freeze. The resulting per-minute rates for the smallest VRS providers for the period from January 1, 2015, to the end of the four-year period are: (1) January 2015–October 2016, $5.29; (2) November 2016–April 2017, $5.06; (3) May–June 2017, $4.82.

10. In response to the *VRS Rate Freeze FNPRM,* a number of commenters urge the Commission to expand the proposed scope of the rate freeze beyond the smallest VRS providers. For example, some parties argue that VRS providers that are larger than the smallest providers, but significantly smaller than the largest provider, also have a need for rate relief based on a comparison of their costs with applicable compensation rates. The information provided to the Commission does not indicate that any VRS providers other than the smallest providers will have allowable costs exceeding the average compensation rate applicable to such providers in 2015 and 2016. The Commission recognizes that among the three largest VRS providers, there are substantial differences in per-minute costs. However, as noted in the *VRS Rate Freeze FNPRM,* the Commission previously restructured the rate tiers—and ''froze'' the Tier II rate at $4.82 for the first three years of the transition period—in order to allow the smaller of these providers '' 'a full opportunity to improve efficiencies and achieve scale.' '' Again, these providers have not shown that they will incur allowable costs in excess of their revenues in 2015 and 2016. The Commission notes that several parties attempt to renew claims made in prior proceedings alleging that the categories of allowable costs are too narrow to permit recovery of all reasonable VRS costs. Those claims were considered and rejected in the VRS Reform Order. *See VRS Reform Order,* 78 FR 40599, July 5, 2013. Further, while a number of parties contend that implementation of structural reforms has imposed additional costs, no party has submitted specific estimates or documentation regarding such implementation costs.

11. In summary, while some parties contend that the compensation rates for currently profitable providers should be frozen, allegedly to prevent reductions in the quality of VRS, the Commission does not perceive any immediate risk that any of the larger VRS providers have been or will be unable to continue to provide service that meets the Commission's minimum TRS standards in 2015 and 2016. The Commission notes, however, that there is an open rulemaking on a number of broader VRS ratemaking proposals and issues. *See VRS Reform FNPRM,* 78 FR 40582, July 5, 2013. Some of the comments filed in response to the *VRS Rate Freeze FNPRM* address those matters, as well as raising

new issues regarding quality of service and the viability of future competition in the VRS market. To the extent relevant, the Commission may address these comments when it completes action on the broader VRS rulemaking proposals.

12. In summary, the Commission directs the TRS Fund administrator, Rolka Loube, to compensate the smallest VRS providers at a rate of $5.29 per minute, applicable from July 1, 2015, through October 31, 2016. More specifically, from the effective date of this Report and Order through October 31, 2016, the Commission directs the administrator to pay compensation to the smallest VRS providers at a rate of $5.29 per minute. Second, the Commission directs the administrator to pay each of the smallest VRS providers a one-time lump sum reflecting the difference between the compensation they would have received if they had been paid at a rate of $5.29 per minute and the compensation they actually received at the lower applicable rates, for all compensable calls completed during the period between July 1, 2015, and the effective date of document FCC 16–25. In addition, to avoid subjecting the smallest VRS providers to a sudden drop in compensation upon the expiration of the 16-month period, the Commission directs the administrator to pay compensation to the smallest VRS providers at a rate of $5.06 per minute from November 1, 2016, through April 30, 2017, and at a rate of $4.82 per minute from May 1, 2017, through June 30, 2017.

Final Regulatory Flexibility Act Certification

13. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared the Final Regulatory Flexibility Certification (FRFC) as to the policies and rules adopted in document FCC 16–25. The Commission will send a copy of document FCC 16–25, including the FRFC, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). (*See* 5 U.S.C. 603(a).)

14. After consideration of the comments received in response to the *VRS Rate Freeze FNPRM,* the Commission modifies in part the four-year compensation rate plan for video relay service (VRS) adopted in the 2013 *VRS Reform Order.* Although the Commission believes that the four-year schedule of VRS compensation rate reductions continues to be justified in order to gradually move compensation rates close to a level close to average allowable provider costs, the Commission modifies the schedule as applied to the smallest VRS providers, *i.e.,* those providing 500,000 or fewer compensable minutes of use of VRS per month. Spreading rate reductions over a four-year period was largely intended to provide a reasonable opportunity for the smallest providers to reach minimum efficient scale while benefitting from the *VRS Reform Order* initiatives, which were intended to address many of the issues that have made it difficult for small providers to operate efficiently.

15. The smallest providers have achieved significant reductions in their per-minute costs but have yet to approach the size or efficiency levels of their larger rivals. Further, some small providers offer service features that may be helpful in advancing the goal of functionally equivalent service for certain subsets of VRS consumers, such as Spanish language speakers and deaf-owned businesses. Therefore, the Commission adopts the temporary, limited compensation rate ''freeze'' proposed in the *VRS Rate Freeze FNPRM.* Specifically, from the effective date of document FCC 16–25 through October 31, 2016, the Commission directs the TRS Fund administrator to pay compensation to the three smallest VRS providers at a rate of $5.29 per minute. In addition, the Commission directs the administrator to pay each of the smallest VRS providers a one-time lump sum reflecting the difference between the compensation they would have received if they had been paid at a rate of $5.29 per minute and the compensation they actually received at the lower applicable rates, for all compensable calls completed during the period between July 1, 2015, and the effective date of document FCC 16–25. In addition, to avoid subjecting the smallest VRS providers to a sudden drop in compensation upon the expiration of the 16-month period, the Commission directs the administrator to pay compensation to the smallest VRS providers at a rate of $5.06 per minute from November 1, 2016, through April 30, 2017, and at a rate of $4.82 per minute from May 1, 2017, through June 30, 2017.

16. In document FCC 16–25, the Commission adopts its proposal to temporarily ''freeze'' the compensation rates applicable to the smallest VRS providers and determines, as it concluded in the Initial Regulatory Flexibility Analysis, that this measure will not impose any additional compliance requirements on small businesses and would temporarily ease the impact of existing VRS regulations on small entities by temporarily increasing the VRS compensation rate for small entities above the rate currently in effect. Therefore, the Commission certifies that the rule amendments in document FCC 16–25 will not have a significant economic impact on a substantial number of small entities.

Ordering Clause

Pursuant to the authority contained in sections 4(i), 201(b), and 225 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 201(b), 225, document FCC 16–25 *is adopted.*

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2016–06305 Filed 3–18–16; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 160202070–6070–01]

RIN 0648–XE427

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Adjustment of Georges Bank and Southern New England/Mid-Atlantic Yellowtail Flounder Annual Catch Limits

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

ACTION: Temporary rule; adjustment of annual catch limits.

SUMMARY: This action transfers unused quota of Georges Bank and Southern New England/Mid-Atlantic yellowtail flounder from the Atlantic scallop fishery to the Northeast multispecies fishery for the remainder of the 2015 fishing year. This quota transfer is justified when the scallop fishery is not expected to catch the entire allocation of either stock of yellowtail flounder. The quota transfer is intended to provide additional harvest opportunities for groundfish vessels to help achieve the optimum yield for these stocks while ensuring sufficient amounts of yellowtail flounder are available for the scallop fishery.

DATES: Effective April 18, 2016, through April 30, 2016.

FOR FURTHER INFORMATION CONTACT: Aja Szumylo, Fishery Policy Analyst, 978–281–9195.

SUPPLEMENTARY INFORMATION: NMFS is required to estimate the total amount of

yellowtail flounder catch from the scallop fishery by January 15 each year. If the scallop fishery is expected to catch less than 90 percent of its Georges Bank (GB) or Southern New England/Mid-Atlantic (SNE/MA) yellowtail flounder sub-ACL, the Regional Administrator (RA) has the authority to reduce the scallop fishery sub-annual catch limit (sub-ACL) for these stocks to the amount projected to be caught, and increase the groundfish fishery sub-ACL for these stocks up to the amount reduced from the scallop fishery. This adjustment is intended to help achieve optimum yield for these stocks, while not threatening an overage of the ACLs for the stocks by the groundfish and scallop fisheries.

Based on the most current available data, we project that the scallop fishery will have unused quota in the 2015 fishing year. We expect that the scallop fishery will catch up to 30 mt of GB yellowtail flounder, or 79 percent of its 2015 fishing year sub-ACL, and up to 44 mt of SNE/MA yellowtail flounder, or 66 percent of its 2015 fishing year sub-ACL. Because the scallop fishery is not expected to catch its entire allocation of GB and SNE/MA yellowtail flounder, this rule reduces the scallop sub-ACL for both stocks to the upper limit projected to be caught, and increases the groundfish sub-ACLs for these stocks by the same amount, effective April 18, 2016, through April 30, 2016.

This results in a transfer of 7.9 mt of GB yellowtail flounder and 22.3 mt of SNE/MA yellowtail flounder, from the scallop fishery to the groundfish fishery. Table 1 summarizes the revisions to the 2015 fishing year sub-ACLs, and Table 2 shows the revised allocations for the groundfish fishery as allocated between the sectors and common pool based on final sector membership for fishing year 2015. This transfer is based on the upper limit of expected yellowtail flounder catch by the scallop fishery, which is expected to minimize any risk of an ACL overage by the scallop fishery while still providing additional fishing opportunities for groundfish vessels.

TABLE 1—GEORGES BANK AND SOUTHERN NEW ENGLAND/MID-ATLANTIC YELLOWTAIL FLOUNDER SUB-ACLS

[In metric tons]

Stock	Fishery	Initial sub-ACL (mt)	Change (mt)	Revised sub-ACL (mt)	Percent change
GB Yellowtail Flounder	Groundfish	195	+7.9	202.9	+4
	Scallop	38.0	−7.9	30.1	−21
SNE/MA Yellowtail Flounder	Groundfish	557	+22.3	579.3	+4
	Scallop	66.0	−22.3	43.7	−34

TABLE 2—ALLOCATIONS FOR SECTORS AND THE COMMON POOL

[In pounds]

Stock	GB yellowtail flounder		SNE/MA yellowtail flounder	
Sector name	Original	Revised	Original	Revised
Fixed Gear Sector	60	63	4,537	4,719
Maine Coast Community Sector	15	16	8,095	8,419
Maine Permit Bank	59	62	390	405
Northeast Coast Communities Sector	3,594	3,739	8,826	9,179
Northeast Fishery Sector I	0	0	0	0
Northeast Fishery Sector II	8,197	8,529	17,162	17,849
Northeast Fishery Sector III	197	205	5,014	5,214
Northeast Fishery Sector IV	9,296	9,672	28,813	29,966
Northeast Fishery Sector V	5,420	5,639	253,651	263,807
Northeast Fishery Sector VI	11,622	12,093	64,600	67,186
Northeast Fishery Sector VII	44,912	46,732	53,151	55,279
Northeast Fishery Sector VIII	41,896	43,593	66,703	69,374
Northeast Fishery Sector IX	115,114	119,778	96,962	100,844
Northeast Fishery Sector X	7	7	6,724	6,993
Northeast Fishery Sector XI	7	7	240	249
Northeast Fishery Sector XIII	106,377	110,687	228,053	237,183
New Hampshire Permit Bank	0	0	0	0
Sustainable Harvest Sector 1	3,974	4,135	5,343	5,557
Sustainable Harvest Sector 3	70,954	73,828	127,312	132,409
All Sectors Combined	421,701	438,785	975,574	1,014,632
Common Pool	8,200	8,533	252,401	262,506

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act, the NMFS Assistant Administrator has determined that the management measures implemented in this final rule are necessary for the conservation and management of the Northeast multispecies fishery and consistent with the Magnuson-Stevens Act, and other applicable law.

This action is authorized by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The NMFS Assistant Administrator finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment for this in season sub-ACL adjustment because notice and comment would be impracticable and contrary to the public interest. Because NMFS is required to project GB and SNE/MA yellowtail flounder catch in the scallop fishery on or around January 15 of each year, there

is insufficient time to allow for prior public notice and comment for the transfer of quota for these yellowtail flounder stocks from the scallop fishery to the groundfish fishery. The NE multispecies fishing year ends on April 30, 2016. If NMFS allowed for the time necessary to provide for prior notice and comment, it would be unlikely that the transfer would occur in time to allow groundfish vessels to harvest the additional quota of these stocks before the end of the fishing year. As a result, groundfish fishermen would be prevented from offsetting their current negative economic circumstances due to the severe decreases in ACLs of several important groundfish stocks, thus undermining the intent of the rule. Giving effect to this rule as soon as possible will help relieve fishermen from more restrictive ACLs for the yellowtail stocks and help achieve optimum yield in the fishery. For these same reasons, the NMFS Assistant Administrator also finds good cause pursuant to 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness for this action for these same reasons. Further, there is no need to allow the industry additional time to adjust to this rule because it does not require any compliance or other action on the part of individual scallop or groundfish fishermen.

Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis is not required and one has not been prepared.

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

Dated: March 15, 2016.

Samuel D. Rauch III,

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

[FR Doc. 2016–06306 Filed 3–18–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 140918791–4999–02]

RIN 0648–XE516

Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the first seasonal apportionment of the Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA has been reached.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), March 16, 2016, through 1200 hours, A.l.t., April 1, 2016.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

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

The first seasonal apportionment of the Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA is 85 metric tons as established by the final 2015 and 2016 harvest specifications for groundfish of the GOA (80 FR 10250, February 25, 2015), for the period 1200 hours, A.l.t., January 20, 2016, through 1200 hours, A.l.t., April 1, 2016.

In accordance with § 679.21(d)(6)(i), the Administrator, Alaska Region, NMFS, has determined that the first seasonal apportionment of the Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA has been reached. Consequently, NMFS is prohibiting directed fishing for the deep-water species fishery by vessels using trawl gear in the GOA. The species and species groups that comprise the deep-water species fishery include sablefish, rockfish, deep-water flatfish, rex sole, and arrowtooth flounder.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the deep-water species fishery by vessels using trawl gear in the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 14, 2016.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: March 16, 2016.

Alan D. Risenhoover,

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

[FR Doc. 2016–06295 Filed 3–16–16; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 150818742–6210–02 and 150916863–6211–02]

RIN 0648–XE507

Fisheries of the Exclusive Economic Zone Off Alaska; Sablefish Managed Under the Individual Fishing Quota Program

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

ACTION: Temporary rule; opening.

SUMMARY: NMFS is opening directed fishing for sablefish with fixed gear managed under the Individual Fishing Quota (IFQ) Program and the Community Development Quota (CDQ) Program. The season will open 1200 hours, Alaska local time (A.l.t.), March 19, 2016, and will close 1200 hours, A.l.t., November 7, 2016. This period is the same as the 2016 commercial halibut fishery opening dates adopted by the International Pacific Halibut Commission. The IFQ and CDQ halibut season is specified by a separate publication in the **Federal Register** of annual management measures.

DATES: Effective 1200 hours, A.l.t., March 19, 2016, until 1200 hours, A.l.t., November 7, 2016.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: Beginning in 1995, fishing for Pacific halibut and sablefish with fixed gear in the IFQ regulatory areas defined in 50 CFR 679.2 has been managed under the IFQ Program. The IFQ Program is a regulatory regime designed to promote the conservation and management of these fisheries and to further the objectives of the Magnuson-Stevens Fishery Conservation and Management Act and the Northern Pacific Halibut Act. Persons holding quota share receive an annual allocation of IFQ. Persons receiving an annual allocation of IFQ are authorized to harvest IFQ species within specified limitations. Further information on the implementation of the IFQ Program, and the rationale supporting it, are contained in the preamble to the final rule implementing the IFQ Program published in the **Federal Register**, November 9, 1993 (58 FR 59375) and subsequent amendments.

This announcement is consistent with § 679.23(g)(1), which requires that the directed fishing season for sablefish managed under the IFQ Program be specified by the Administrator, Alaska Region, and announced by publication in the **Federal Register**. This method of season announcement was selected to facilitate coordination between the sablefish season, chosen by the Administrator, Alaska Region, and the halibut season, adopted by the International Pacific Halibut Commission (IPHC). The directed fishing season for sablefish with fixed gear managed under the IFQ Program will open 1200 hours, A.l.t., March 19, 2016, and will close 1200 hours, A.l.t., November 7, 2016. This period runs concurrently with the IFQ season for Pacific halibut announced by the IPHC. The IFQ halibut season will be specified by a separate publication in the **Federal Register** of annual management measures pursuant to 50 CFR 300.62.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of the sablefish fishery thereby increasing bycatch and regulatory discards between the sablefish fishery and the halibut fishery, and preventing the accomplishment of the management objective for simultaneous opening of these two fisheries. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 14, 2016.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.23 and is exempt from review under Executive Order 12866.

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

Dated: March 15, 2016.

Alan D. Risenhoover,

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

[FR Doc. 2016–06225 Filed 3–16–16; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–4228; Directorate Identifier 2015–NM–107–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2014–13–12, for all Airbus Model A318, A319, A320, and A321 series airplanes. AD 2014–13–12 currently requires identifying the part number and serial number of each passenger oxygen container, replacing the oxygen generator manifold of any affected oxygen container with a serviceable manifold, and performing an operational check of the manual mask release, and doing corrective actions if necessary. Since we issued AD 2014–13–12, we have determined that affected containers have not only been marked with company name B/E Aerospace, as was specified, but also, for a brief period, with the former company name DAe Systems. This proposed AD would retain the requirements of AD 2014–13–12, and require replacing the oxygen generator manifold of any affected DAe oxygen container with a serviceable manifold. We are proposing this AD to detect and correct nonserviceable oxygen generator manifolds, which could reduce or block the oxygen supply and result in injury to passengers when oxygen supply is needed.

DATES: We must receive comments on this proposed AD by May 5, 2016.

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

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

For Airbus service information identified in this NPRM, 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*.

For B/E AEROSPACE service information identified in this proposed AD, contact BE Aerospace Systems GmbH, Revalstrasse 1, 23560 Lübeck, Germany; telephone (49) 451 4093–2976; fax (49) 451 4093–4488.

You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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–2016–4228; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, 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–2016–4228; Directorate Identifier 2015–NM–107–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

On July 9, 2014, we issued AD 2014–13–12, Amendment 39–17888 (79 FR 45317, August 5, 2014) (''AD 2014–13–12''). AD 2014–13–12 requires actions intended to address an unsafe condition on all Airbus Model A318, A319, A320, and A321 series airplanes.

Since we issued AD 2014–13–12, we have determined that affected containers have not only been marked with company name B/E Aerospace, as was specified, but also, for a brief period, with the former company name DAe Systems.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2014–0208, dated September 16, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition. The MCAI states:

> During production of passenger oxygen containers, the manufacturer, B/E Aerospace, detected some silicon particles inside the oxygen generator manifolds. Investigation revealed that those particles (chips) had chafed from the mask hoses during installation onto the generator outlets. It was discovered that a defective mask hose installation device had caused the chafing.
>
> This condition, if not detected and corrected, could reduce or block the oxygen supply, possibly resulting in injury to passengers when oxygen supply is needed.
>
> To address this potential unsafe condition, EASA issued AD 2011–0167 [*http://ad.easa.europa.eu/blob/*

easa_ad_2011_0167_superseded.pdf/ AD_2011-0167_1] to require the identification and modification of the affected oxygen container assemblies. That [EASA] AD also prohibited the installation of the affected containers on any aeroplane as replacement parts. It was subsequently established that Models A318–121 and A318–122 were missing from the Applicability of the [EASA] AD, and clarification was necessary regarding the affected containers.

Consequently, EASA issued AD 2012–0083 [*http://ad.easa.europa.eu/blob/ easa_ad_2012_0083_superseded.pdf/ AD_2012-0083_1*] [which corresponds to FAA AD 2014–13–12, Amendment 39–17888 (79 FR 45317, August 5, 2014)], retaining the requirements of EASA AD 2011–0167, which was superseded, expanded the Applicability by adding two aeroplane models, and provided clarity by providing a list of affected passenger oxygen containers.

Since that [EASA] AD was issued, it was found that the affected containers have not only been marked with company name B/E Aerospace, as was specified, but also, for a brief period, with the former company name DAe Systems.

For the reason described above, this [EASA] AD retains the requirements of EASA AD 2012–0083, which is superseded, and expands the affected group of containers to include those that have the name ''DAe Systems'' on the identification plate.

This [EASA] AD also clearly separates the serial number (s/n) groups of containers into those manufactured by B/E Aerospace and those manufactured by DAe Systems, for which additional compliance time is provided.

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–2016–4228.

Related Service Information Under 1 CFR Part 51

Airbus has issued Service Bulletin A320–35A1047, dated March 29, 2011. The service information describes procedures for modifying the oxygen mask hoses of the Type 1 and Type 2 oxygen containers.

B/E AEROSPACE has issued Service Bulletins 1XCXX–0100–35–005 and 22CXX–0100–35–003, both Revision 2, both dated July 10, 2014. The service information describes procedures for replacement of the oxygen generator manifold.

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 Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI 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 the same type designs.

Changes to This Proposed AD

We have not included paragraph (h)(5) of AD 2014–13–12 in this proposed AD. Paragraph (h)(5) of AD 2014–13–12 inadvertently specified that certain actions were to be done if the affected part was listed in the specified service information. It should have specified that those actions were to be done only if the part was not listed in the service information. We have included the correct requirement in the new actions of this proposed AD.

We have removed Note 1 to paragraph (h)(1) of AD 2014–13–12, which identified affected passenger emergency oxygen container assemblies as those having the mark ''B/E AEROSPACE'' on the identification plate. This is no longer applicable because we have determined that affected containers have not only been marked with company name B/E Aerospace, as was specified, but also, for a brief period, with the former company name DAe Systems.

We have added Note 2 to figure 1 to paragraph (i)(7) of this AD, which provides information to clarify information presented in figure 1 to paragraph (i)(7) of this AD.

Costs of Compliance

We estimate that this proposed AD affects 22 airplanes of U.S. registry.

The actions required by AD 2014–13–12, and retained in this proposed AD take about 6 work-hours 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 2014–13–12 is $510 per product.

We also estimate that it would take about 6 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $11,220, or $510 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2014–13–12, Amendment 39–17888 (79

FR 45317, August 5, 2014), and adding the following new AD:

Airbus: Docket No. FAA–2016–4228; Directorate Identifier 2015–NM–107–AD.

(a) Comments Due Date

We must receive comments by May 5, 2016.

(b) Affected ADs

This AD replaces AD 2014–13–12, Amendment 39–17888 (79 FR 45317, August 5, 2014) (''AD 2014–13–12'').

(c) Applicability

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

(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, –233, and –271 airplanes.

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

(d) Subject

Air Transport Association (ATA) of America Code 35, Oxygen.

(e) Reason

This AD was prompted by reports of silicon particles inside the oxygen generator manifolds, which had chafed from the mask hoses during installation onto the generator outlets. We are issuing this AD to detect and correct nonserviceable oxygen generator manifolds, which could reduce or block the oxygen supply and result in injury to passengers when oxygen supply is needed.

(f) Compliance

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

(g) Retained Part Number and Serial Number Identification, With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2014–13–12, with no changes. Within 5,000 flight cycles, or 7,500 flight hours, or 24 months, whichever occurs first after September 9, 2014 (the effective date of AD 2014–13–12), identify the part number and serial number of each passenger oxygen container. A review of airplane maintenance records is acceptable in lieu of this identification if the part number and serial number of the oxygen container can be conclusively determined from that review.

(h) Retained Replacement, Check, and Repair, With Paragraph (h)(5) and Note 1 to Paragraph (h) of AD 2014–13–12 Removed, and Revised Repair Instructions

This paragraph restates the requirements of paragraph (h) of AD 2014–13–12, with paragraph (h)(5) and Note 1 to paragraph (h) of AD 2014–13–12 removed, and revised repair instructions. If the part number of the passenger oxygen container is listed in paragraph (h)(1) of this AD and the serial number of the passenger oxygen container is listed in paragraph (h)(2) of this AD: Within the compliance time specified in paragraph (g) of this AD, do the actions specified in paragraphs (h)(3) and (h)(4) of this AD, except as provided by paragraphs (i)(1) through (i)(7) of this AD.

(1) (Type I: 15 and 22 minutes) 12C15Lxxxxx0100, 12C15Rxxxxx0100, 13C15Lxxxxx0100, 13C15Rxxxxx0100, 14C15Lxxxxx0100, 14C15Rxxxxx0100, 12C22Lxxxxx0100, 12C22Rxxxxx0100, 13C22Lxxxxx0100, 13C22Rxxxxx0100, 14C22Lxxxxx0100, and 14C22Rxxxxx0100; and (Type II: 15 and 22 minutes) 22C15Lxxxxx0100, 22C15Rxxxxx0100, 22C22Lxxxxx0100, and 22C22Rxxxxx0100.

(2) ARBA–0000 to ARBA–9999 inclusive, ARBB–0000 to ARBB–9999 inclusive, ARBC–0000 to ARBC–9999 inclusive, ARBD–0000 to ARBD–9999 inclusive, ARBE–0000 to ARBE–9999 inclusive, BEBF–0000 to BEBF–9999 inclusive, BEBH–0000 to BEBH–9999 inclusive, BEBK–0000 to BEBK–9999 inclusive, BEBL–0000 to BEBL–9999 inclusive, and BEBM–0000 to BEBM–9999 inclusive.

(3) Replace the oxygen generator manifold of any affected oxygen passenger container with a serviceable manifold, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–35A1047, dated March 29, 2011.

(4) Do an operational check of the manual mask release, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–35A1047, dated March 29, 2011. If the operational check fails, before further flight, repair the manual mask release, using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).

(i) Retained Exceptions, With No Changes

This paragraph restates the provisions of paragraph (i) of AD 2014–13–12, with no changes.

(1) Oxygen containers that meet the conditions specified in paragraph (i)(1)(i) or (i)(1)(ii) of this AD are compliant with the requirements of paragraph (h) of this AD.

(i) Oxygen containers Type I having a part number listed in paragraph (h)(1) of this AD and having a serial number listed in paragraph (h)(2) of this AD, that have been modified prior to September 9, 2014 (the effective date of AD 2014–13–12), as specified in the Accomplishment Instructions of B/E Aerospace Service Bulletin 1XCXX–0100–35–005, Revision 1, dated December 15, 2012.

(ii) Oxygen containers Type II having a part number listed in paragraph (h)(1) of this AD and having a serial number listed in paragraph (h)(2) of this AD, that have been modified prior to September 9, 2014 (the effective date of AD 2014–13–12), as specified in the Accomplishment Instructions of B/E Aerospace Service Bulletin 22CXX–0100–35–003, Revision 1, dated December 20, 2011.

(2) Airplanes on which Airbus Modification 150703 or Airbus Modification 150704 has not been embodied in production do not have to comply with the requirements of paragraph (h) of this AD, unless an oxygen container having a part number listed in paragraph (h)(1) of this AD and having a serial number listed in paragraph (h)(2) of this AD has been replaced since the airplane's first flight.

(3) Airplanes on which Airbus Modification 150703 or Airbus Modification 150704 has been embodied in production and which are not listed by model and manufacturer serial number in Airbus Service Bulletin A320–35A1047, dated March 29, 2011, are not subject to the requirements of paragraphs (g) and (h) of this AD, unless an oxygen container having a part number listed in paragraph (h)(1) of this AD and having a serial number listed in paragraph (h)(2) of this AD has been replaced since the airplane's first flight.

(4) Model A319 airplanes that are equipped with a gaseous oxygen system for passengers, installed in production with Airbus Modification 33125, do not have the affected passenger oxygen containers installed. Unless these airplanes have been modified in service (no approved Airbus modification exists), the requirements of paragraphs (g) and (h) of this AD do not apply to these airplanes.

(5) Airplanes that have already been inspected prior to the effective date of this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–35A1047, dated March 29, 2011, must be inspected and, depending on the findings, corrected, within the compliance time defined in paragraph (g) of this AD, as required by paragraph (h) of this AD, as applicable, except as specified in paragraph (i)(6) of this AD.

(6) Airplanes on which the passenger oxygen container has been replaced before the effective date of this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–35A1047, dated March 29, 2011, are compliant with the requirements of the paragraph (h) of this AD for that passenger oxygen container.

(7) The requirements of paragraphs (g) and (h) of this AD apply only to passenger oxygen containers that are Design A, as defined in figure 1 to paragraph (i)(7) of this AD.

Figure 1 to paragraph (i)(7) of this AD – Design A of the Passenger Oxygen Containers Affected by this AD

Design A: The placard on the passenger oxygen container test button is as described in Picture A of Appendix 1 of this AD. The Mask configuration ("ZZ" in Picture A) is a number and the test button is as shown in Picture B.

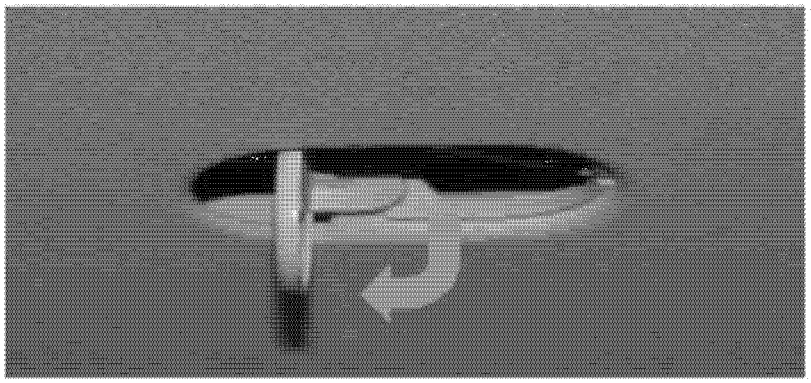
Picture A:

YY/YYYY : Month and Year of Inspection of Container

X : number of masks

ZZ : Oxygen mask code from the 7. + 8. place of the Customerr Part No.

Picture B:



Note 1 to figure 1 to paragraph (i)(7) of this AD: Figure 1 is a reproduction of material from EASA AD 2012–0083, dated May 16, 2012. The words ''Appendix 1 of this AD'' in this figure refer to Appendix 1 of EASA AD 2012–0083, dated May 16, 2012.

Note 2 to figure 1 to paragraph (i)(7) of this AD: For ''Design A,'' the placard on the passenger oxygen container test button is as described in ''Picture A'' in figure 1 to paragraph (i)(7) of this AD. The mask configuration (''ZZ'' in ''Picture A'') is a number, and the test button is as shown in ''Picture B.''

(j) Retained Parts Installation Limitations, With No Changes

This paragraph restates the requirements of paragraph (j) of AD 2014–13–12, with no changes. As of September 9, 2014 (the effective date of AD 2014–13–12), no person may install an oxygen container having a part number specified in paragraph (h)(1) of this AD and having a serial number specified in

paragraph (h)(2) of this AD, on any airplane, unless the container has been modified in accordance with the Accomplishment Instructions of any of the service information specified in paragraph (j)(1), (j)(2), or (j)(3) of this AD, as applicable.

(1) Airbus Service Bulletin A320–35A1047, dated March 29, 2011.

(2) B/E AEROSPACE Service Bulletin 1XCXX–0100–35–005, Revision 1, dated December 15, 2012.

(3) B/E AEROSPACE Service Bulletin 22CXX–0100–35–003, Revision 1, dated December 20, 2011.

(k) New Requirement of This AD: Identification of Oxygen Containers

At the applicable time specified in paragraphs (k)(1) and (k)(2) of this AD: Identify the part number and serial number of each passenger oxygen container. A review of airplane maintenance records is acceptable in lieu of this identification if the part number and serial number of the oxygen container can be conclusively determined from that review.

(1) For units with ''B/E AEROSPACE'' on the identification plate: Within 5,000 flight cycles, or 7,500 flight hours, or 24 months, whichever occurs first after the effective date of this AD.

(2) For units with ''DAe Systems'' on the identification plate: Within 2,500 flight cycles, or 3,750 flight hours, or 12 months, whichever occurs first, after the effective date of this AD.

(l) New Requirement of This AD: Modification of Oxygen Containers

If a passenger oxygen container has a part number listed in paragraph (h)(1) of this AD and a serial number listed in paragraph (m)(1) or (m)(2) of this AD: At the applicable time specified in paragraphs (k)(1) and (k)(2) of this AD, do the actions specified in paragraphs (l)(1), (l)(2), and (l)(3) of this AD.

(1) Replace the oxygen generator manifold of any affected oxygen container with a serviceable manifold, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–35A1047, dated March 29, 2011.

(2) Do an operational check of the manual mask release, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–35A1047, dated March 29, 2011. If the operational check fails, before further flight, repair the manual mask release, using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA; or Airbus's EASA DOA.

(3) Check if the part number of the passenger oxygen container is listed in B/E Aerospace Service Bulletin 1XCXX–0100–35–005, Revision 2, dated July 10, 2014; or B/E Aerospace Service Bulletin 22CXX–0100–35–003, Revision 2, dated July 10, 2014, as applicable. If the part number is not listed in B/E Aerospace Service Bulletin 1XCXX–0100–35–005, Revision 2, dated July 10, 2014; or B/E Aerospace Service Bulletin 22CXX–0100–35–003, Revision 2, dated July 10, 2014; within the compliance time specified in paragraphs (k)(1) and (k)(2) of this AD, repair the passenger oxygen container using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA; or Airbus's EASA DOA.

(m) New Requirement of This AD: Part Number and Serial Numbers for the Parts Affected by Paragraph (l) of This AD Requirements

Affected parts for the actions required by paragraph (l) of this AD are identified in paragraphs (m)(1) and (m)(2) of this AD.

(1) For oxygen containers with ''DAe Systems'' on the identification plate: Units having a part number identified in paragraphs (h)(1) of this AD, where part number ''xxxxx'' stands for any alphanumerical value, and a serial number identified in paragraphs (m)(1)(i) through (m)(1)(vi) of this AD.

(i) ARBA–0000 to ARBA–9999 inclusive.

(ii) ARBB–0000 to ARBB–9999 inclusive.

(iii) ARBC–0000 to ARBC–9999 inclusive.

(iv) ARBD–0000 to ARBD–9999 inclusive.

(v) ARBE–0000 to ARBE–9999 inclusive.

(vi) BEBE–0000 to BEBE–9999 inclusive.

(2) For oxygen containers with ''B/E AEROSPACE'' on the identification plate: Units having a part number identified in paragraphs (h)(1) of this AD, where part number ''xxxxx'' stands for any alphanumerical value, and a serial number identified in paragraphs (m)(2)(i) through (m)(2)(v) of this AD.

(i) BEBF–0000 to BEBF–9999 inclusive.

(ii) BEBH–0000 to BEBH–9999 inclusive.

(iii) BEBK–0000 to BEBK–9999 inclusive.

(iv) BEBL–0000 to BEBL–9999 inclusive.

(v) BEBM–0000 to BEBM–9999 inclusive.

(n) New Requirement of This AD: Exceptions

(1) Oxygen containers that meet the conditions specified in paragraph (n)(1)(i) or (n)(1)(ii) of this AD are compliant with the requirements of paragraph (l) of this AD.

(i) Oxygen containers Type I having a part number listed in paragraph (h)(1) of this AD and having a serial number listed in paragraph (m)(1) or (m)(2), as applicable, of this AD, that have been modified prior to the effective date of this AD, as specified in the Accomplishment Instructions of B/E Aerospace Service Bulletin 1XCXX–0100–35–005, Revision 1, dated December 15, 2012; or B/E Aerospace Service Bulletin 1XCXX–0100–35–005, Revision 2, dated July 10, 2014.

(ii) Oxygen containers Type II having a part number listed in paragraph (h)(1) of this AD and having a serial number listed in paragraph (m)(1) or (m)(2) of this AD, as applicable, that have been modified prior to the effective date of this AD, as specified in the Accomplishment Instructions of B/E Aerospace Service Bulletin 22CXX–0100–35–003, Revision 1, dated December 20, 2011; or B/E Aerospace Service Bulletin 22CXX–0100–35–003, Revision 2, dated July 10, 2014.

(2) Airplanes on which Airbus Modification 150703 or Airbus Modification 150704 has not been embodied in production do not have to comply with the requirements of paragraph (l) of this AD, unless an oxygen container having a part number listed in paragraph (h)(1) of this AD and having a serial number listed in paragraph (m)(1) or (m)(2) of this AD, as applicable, of this AD has been replaced since the airplane's first flight.

(3) Airplanes on which Airbus Modification 150703 or Airbus Modification 150704 has been embodied in production and which are not listed by model and manufacturer serial number in Airbus Service Bulletin A320–35A1047, dated March 29, 2011, are not subject to the requirements of paragraphs (k) and (l) of this AD, unless an oxygen container having a part number listed in paragraph (h)(1) of this AD and having a serial number listed in paragraph (m)(1) or (m)(2) of this AD, as applicable, of this AD has been replaced since the airplane's first flight.

(4) Model A319 airplanes that are equipped with a gaseous oxygen system for passengers, installed in production with Airbus Modification 33125, do not have the affected passenger oxygen containers installed. Unless these airplanes have been modified in service (no approved Airbus modification exists), the requirements of paragraphs (k) and (l) of this AD do not apply to these airplanes.

(5) Airplanes that have already been inspected prior to the effective date of this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–35A1047, dated March 29, 2011, must be inspected and, depending on the findings, corrected, within the compliance time defined in paragraphs (k)(1) and (k)(2) of this AD, as applicable, as required by paragraph (l) of this AD, as applicable, except as specified in paragraph (n)(6) of this AD.

(6) Airplanes on which the passenger oxygen container has been replaced before the effective date of this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–35A1047, dated March 29, 2011, are compliant with the requirements of the paragraph (l) of this AD for that passenger oxygen container.

(7) The requirements of paragraphs (k) and (l) of this AD apply only to passenger oxygen containers that are Design A, as defined in figure 1 to paragraph (i)(7) of this AD.

(o) New Requirement of This AD: Parts Installation Limitations

As of the effective date of this AD, no person may install an oxygen container having a part number specified in paragraph (h)(1) of this AD and having a serial number specified in paragraph (m)(1) or (m)(2) of this AD, as applicable, on any airplane, unless the container has been modified in accordance with the Accomplishment Instructions of any of the service information specified in paragraph (o)(1), (o)(2), or (o)(3) of this AD, as applicable to the oxygen container part number.

(1) Airbus Service Bulletin A320–35A1047, dated March 29, 2011.

(2) B/E Aerospace Service Bulletin 1XCXX–0100–35–005, Revision 2, dated July 10, 2014.

(3) B/E Aerospace Service Bulletin 22CXX–0100–35–003, Revision 2, dated July 10, 2014.

(p) Credit for Previous Actions

(1) This paragraph restates the requirements of paragraph (k) of AD 2014–13–12, with no changes. This paragraph provides credit for the actions required by paragraph (h) of this AD, if those actions were performed before September 9, 2014 (the effective date of AD 2014–13–12) using the service information specified in paragraph (p)(1)(i) or (p)(1)(ii) of this AD, as applicable to the oxygen container part number.

(i) B/E Aerospace Service Bulletin 1XCXX–0100–35–005, dated March 14, 2011, which is not incorporated by reference in this AD.

(ii) B/E Aerospace Service Bulletin 22CXX–0100–35–003, dated March 17, 2011, which is not incorporated by reference in this AD.

(2) This paragraph provides credit for the actions required by paragraphs (l)(3) and (o) of this AD, if those actions were performed before the effective date of this AD using the service information specified in paragraph (p)(2)(i) or (p)(2)(ii) of this AD, as applicable to the oxygen container part number.

(i) B/E Aerospace Service Bulletin 1XCXX–0100–35–005, Revision 1, dated December 15, 2012, which is incorporated by reference in AD 2014–13–12.

(ii) B/E Aerospace Service Bulletin 22CXX-0100–35–003, Revision 1, dated December 20, 2011, which is incorporated by reference in AD 2014–13–12.

(q) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, 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. The AMOC approval letter must specifically reference this AD.

(ii) AMOCs approved previously for AD 2014–13–12, are approved as AMOCs for the corresponding provisions of paragraphs (g) through (j) of this AD.

(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 Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(r) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2014–0208, dated September 16, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–4228.

(2) 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*. For B/E Aerospace service information identified in this proposed AD, contact BE Aerospace Systems GmbH, Revalstrasse 1, 23560 Lübeck, Germany; telephone (49) 451 4093–2976; fax (49) 451 4093–4488. You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on March 14, 2016.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–06247 Filed 3–18–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. FDA–2016–F–0784]

Global Nutrition International; Filing of Food Additive Petition (Animal Use)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of petition.

SUMMARY: The Food and Drug Administration (FDA) is announcing we have filed a petition, submitted by Global Nutrition International, proposing that the food additive regulations be amended to provide for the safe use of calcium butyrate as a source of energy in dairy cattle feed.

DATES: The food additive petition was filed on February 12, 2016.

FOR FURTHER INFORMATION CONTACT: Chelsea Trull, Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–402–6729, *chelsea.trull@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (section 409(b)(5) (21 U.S.C. 348(b)(5))), we are giving notice that we have filed a food additive petition (FAP 2294), submitted by Global Nutrition International, Zac de Paron, 5 Rue des Compagnons d'Emmaüs, BP 70166, 35301 Fougères Cedex, France. The petition proposes to amend the food additive regulations in 21 CFR part 573 *Food Additives Permitted in Feed and Drinking Water of Animals* to provide for the safe use of calcium butyrate as a source of energy in dairy cattle feed.

The petitioner has claimed that this action is categorically excluded under 21 CFR 25.32(r) because it is of a type that does not individually or cumulatively have a significant effect on the human environment. In addition, the petitioner has stated that to their knowledge, no extraordinary circumstances exist. If FDA determines a categorical exclusion applies, neither an environmental assessment nor an environmental impact statement is required. If FDA determines a categorical exclusion does not apply, we will request an environmental assessment and make it available for public inspection.

Dated: March 15, 2016.

Tracey H. Forfa,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 2016–06199 Filed 3–18–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2016–0095]

RIN 1625–AA00

Safety Zone; Hope Chest Buffalo Niagara Dragon Boat Festival, Buffalo River, Buffalo, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone for certain waters of the Buffalo River. This action is necessary to provide for the safety of life on these navigable waters near Buffalo River Works, Buffalo, NY, during the Hope Chest Buffalo Niagara Dragon Boat Festival on June 18, 2016. This proposed rulemaking would prohibit persons and vessels from passing through the safety zone during race heats unless authorized by the

Captain of the Port Buffalo or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before April 20, 2016.

ADDRESSES: You may submit comments identified by docket number USCG–2016–0095 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email LTJG Amanda Garcia, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9573, email *SectorBuffaloMarineSafety@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, Purpose, and Legal Basis

On January 12, 2016, the Hope Chest Buffalo (Lumanina Crop) notified the Coast Guard that it will be conducting a series of dragon boat races from 7 a.m. to 6 p.m. on June 18, 2016. The dragon boat races are to take place in the Buffalo River behind the Buffalo River Works restaurant in a 300 meter long course consisting of 4 lanes, each 10 meters wide in Buffalo, NY. The Captain of the Port Buffalo (COTP) has determined that a boating race event on a navigable waterway will pose a significant risk to participants and the boating public.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within the race course during heats of the scheduled event. Vessel traffic will be allowed to pass through the safety zone between heats. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

III. Discussion of Proposed Rule

The COTP proposes to establish a safety zone from 6:45 a.m. to 6:15 p.m. on June 18, 2016, that would be effective and enforced intermittently. The safety zone would cover all navigable waters of the Buffalo River; Buffalo, NY starting at position 42°52′ 12.6012″ N. and 078°52′ 17.6442″ W. then Southeast to 42°52′ 3.165″ N. and 078°52′ 12.432″ W. then East to 42°52′ 3.6768″ N. and 078°52′ 10.347″ W. then Northwest to 42°52′ 13.407″ N. and 078°52′ 15.9096″ W. then returning to the point of origin. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 7 a.m. to 6 p.m. racing event. Vessels will be permitted to pass through the safety zone in between heats. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic would be able to safely transit through this safety zone in between race heats which would impact a small designated area of the Buffalo River for one day. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed 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. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would 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 proposed 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 proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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 proposed 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed 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 made a preliminary determination 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 proposed rule involves the establishment of a safety zone lasting 11.5 hours that would prohibit entry within the zone during heats. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.lD. A preliminary environmental analysis checklist and Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0095 to read as follows:

§ 165.T09–0095 Safety Zone; Hope Chest Buffalo Niagara Dragon Boat Festival, Buffalo River, Buffalo, NY.

(a) *Location.* This zone will cover all navigable waters of the Buffalo River; Buffalo, NY starting at position 42°52′12.6012″ N. and 078°52′17.6442″ W. then Southeast to 42°52′3.165″ N. and 078°52′12.432″ W. then East to 42°52′3.6768″ N. and 078°52′10.347″ W. then Northwest to 42°52′13.407″ N. and 078°52′15.9096″ W. then returning to the point of origin.

(b) *Enforcement Period.* This regulation will be enforced intermittently on June 18, 2016 from 6:45 a.m. until 6:15 p.m.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone must contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: February 24, 2016.

B.W. Roche,

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

[FR Doc. 2016–06312 Filed 3–18–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2016–0162]

RIN 1625–AA00

Safety Zone; Richland Regatta, Columbia River, Richland, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a safety zone for certain waters of the Columbia River in the vicinity of Howard Amon Park, Richland, WA, between River Miles 337 and 338, during a hydroplane boat race from June 3, 2016, through June 5, 2016. This action is necessary to provide for the safety of life on the navigable waters during the event. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Sector Columbia River or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before April 20, 2016.

ADDRESSES: You may submit comments identified by docket number USCG–2016–0162 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Mr. Ken Lawrenson, Waterways Management Division, MSU Portland, OR, U.S. Coast Guard; telephone 503–240–9319, email *msupdxwwm@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

On December 21, 2015, the Northwest Power Boat Association notified the Coast Guard that it will be conducting a hydroplane boat race from 7 a.m. to 7 p.m. daily from June 3, 2016, through June 5, 2016, as part of the Richland Regatta. The race will be held in the vicinity of Howard Amon Park, Richland, WA, and poses significant dangers to the maritime public including excessive noise, vessels racing at high speeds in proximity to other vessels, and flying debris in the event of an accident. The Captain of the Port Sector Columbia River (COTP) has determined these potential hazards would be a safety concern for maritime traffic.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters before, during and after daily scheduled races. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

III. Discussion of Proposed Rule

The COTP proposes to enforce a safety zone from 7 a.m. to 7 p.m. daily from June 3, 2016, through June 5, 2016. The safety zone would include all navigable waters of the Columbia River on all navigable waters of the Columbia River between River Miles 337 and 338 in the vicinity of oward Amon Park, Richland, WA. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled event. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

This regulatory action determination is based on the following factors. The safety zone will only be effective for 12 hours daily over a 3 day period, and while non-participant vessels will be unable to enter, trainsit through, anchor in, or remain within the event area without authorization from the Captain of the Port Sector Columbia River or a designated representative, they may operate in the surrounding areas during the enforcement period. Additionally, non-participant vessels may still enter, transit through, anchor in, or remain within the event area during the enforcement period if authorized by the COTP Sector Columbia River or a designated representative. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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 proposed 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. The Coast Guard will not retaliate against small entities that question or complain about this

proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would 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 proposed 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 proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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 proposed 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed 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 made a preliminary determination 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 proposed rule involves a safety zone that would be enforced from 7 a.m. to 7 p.m. daily from June 3, 2016, through June 5, 2016. The safety zone would cover navigable waters of the Columbia River between River Miles 337 and 338 in the vicinity of oward Amon Park, Richland, WA. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.lD. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov*. If your material cannot be submitted using *http://www.regulations.gov*, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part165 continues to read as follows:

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

■ 2. Add § 165.T13–0162 to read as follows:

§ 165.T13–0162 Safety Zone; Richland Regatta, Columbia River, Richland, WA.

(a) *Regulated area.* The following regulated area is a safety zone. The safety zone will include all navigable waters of the Columbia River in the vicinity of Howard Amon Park, Richland, WA, between River Miles 337 and 338.

(b) *Definitions.* (1) The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Sector Columbia River in the enforcement of the regulated area.

(2) The term ''Non-participant persons and vessels'' means a vessel or person not participating in the event as a participant, spectator, or event attendee.

(c) *Regulations.* (1) In accordance with the general regulations in subpart C of this part, non-participant persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by Captain of the Port Sector Columbia River or a designated representative.

(2) Non-participant persons and vessels may request authorization to enter, transit through, anchor in, or remain within the regulated area by contacting the Captain of the Port Sector Columbia River or a designated representative via VHF radio on channel 16. If authorization is granted by the Captain of the Port Sector Columbia River or a designated representative, all

persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Sector Columbia River or a designated representative.

(d) *Enforcement period.* This safety zone as described in paragraph (a) of this section will be enforced from 7 a.m. to 7 p.m. each day from June 3, 2016, through June 5, 2016.

Dated: March 4, 2016.

D.J. Travers,

Captain, U.S. Coast Guard, Captain of the Port, Sector Columbia River.

[FR Doc. 2016–05880 Filed 3–18–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2016–0138]

RIN 1625–AA00

Safety Zone; Cocos Lagoon, Merizo, GU

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a safety zone for Coco's Crossing swim event in the waters of Coco's Lagoon, Guam. This event is scheduled to take place from 6 a.m. to 1 p.m. on May 29, 2015. This safety zone is necessary to protect all persons and vessels participating in this marine event from potential safety hazards associated with vessel traffic in the area. Race participants, chase boats and organizers of the event will be exempt from the safety zone. Entry of persons or vessels into this safety zone is prohibited unless authorized by the Captain of the Port (COTP). We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before April 20, 2016.

ADDRESSES: You may submit comments identified by docket number USCG–2016–0138 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Chief Kristina Gauthier, U.S. Coast Guard Sector Guam at (671) 355–4866, email *Kristina.M.Gauthier@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

On February 16, 2016, the Coast Guard was notified of the intent of the Manukai Athletic Club and The Manhoben Swim Club to hold the Coco's Crossing swimming race on May 29, 2016 from 6 a.m. to 1 p.m. in Merizo. The race will be from the Merizo pier to Coco's Island and back. This safety zone is necessary to protect all persons and vessels participating in this marine event from potential safety hazards associated with vessel traffic in the area. The Captain of the Port Guam has determined that potential hazards associated with vessels in the area would be a safety concern for participants; therefore, a 100-yard radius is established around all participants.

The purpose of this rulemaking is to ensure the safety of race participants in the navigable waters within a 100-yard radius before, during, and after the scheduled event. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

III. Discussion of Proposed Rule

The COTP proposes to establish a safety zone from 6 a.m. to 1 p.m. on May 29, 2016. The safety zone would cover all navigable waters within a 100-yard radius of race participants in Merizo and Coco's Lagoon. The duration of the zone is intended to ensure the safety of participants before, during, and after the scheduled 6 a.m. to 1 p.m. race. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. Race participants, chase boats and organizers of the event are exempt from the safety zone. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic would be able to safely transit around this safety zone which would impact a small designated area of the Merizo and Coco's Lagoon for 7 hours in the morning when vessel traffic in the area is low and mainly constitutes excursions to Coco's Island. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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 proposed 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. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would 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 proposed 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 proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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 proposed 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed 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 made a preliminary determination 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 proposed rule involves a safety zone lasting less than 7 hours that would prohibit entry within 200 yards of race participants. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.lD. A preliminary environmental analysis checklist and Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

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

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record-keeping requirements, Security measures, Waterways.

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

PART 165—SAFETY ZONE; COCOS LAGOON, MERIZO, GU

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

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

■ 2. Add § 165.T14–0138 to read as follows:

165. T14–0138 Safety Zone; Cocos Lagoon, Merizo, Guam.

(a) *Location.* The following area, within the Guam Captain of the Port (COTP) Zone (See 33 CFR 3.70–15), all navigable waters within a 100-yard radius of race participants in Merizo and Coco's Lagoon. Race participants, chase boats and organizers of the event will be exempt from the safety zone.

(b) *Effective Dates.* This rule is effective from 6 a.m. through 1 p.m. on May 29, 2016 through 1 p.m.

(c) *Enforcement.* Any Coast Guard commissioned, warrant, or petty officer, and any other COTP representative permitted by law, may enforce this temporary safety zone.

(d) *Waiver.* The COPT may waive any of the requirements of this rule for any person, vessel or class of vessel upon finding that application of the safety zone is unnecessary or impractical for the purpose of maritime security,

(g) *Penalties.* Vessels or persons violating this rule are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Dated: March 2, 2016.

James B. Pruett,

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

[FR Doc. 2016–06294 Filed 3–18–16; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL MARITIME COMMISSION

46 CFR Parts 502, 503, 515, 520, 530, 535, 540, 550, 555, and 560

[Docket No. 16–06]

RIN 3072–AC34

Update of Existing and Addition of New User Fees

AGENCY: Federal Maritime Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Maritime Commission (Commission) is considering amending its current user fees and invites public comment on whether the Commission should amend its user fees. Specifically, the Commission is considering increasing fees for: Filing complaints and certain petitions; records searches, document copying, and admissions to practice; paper filing of ocean transportation intermediary (OTI) applications; filing applications for special permission; and filing agreements.

The Commission is also considering lowering fees for: Reviewing Freedom of Information Act (FOIA) requests; revising clerical errors on service contracts; revising clerical errors on non-vessel-operating common carrier (NVOCC) service agreements; and Commission services to passenger vessel operators (PVOs).

In addition, the Commission is considering repealing four existing fees for: Adding interested parties to a specific docket mailing list; the Regulated Persons Index database; database reports on Effective Carrier Agreements; and filing petitions for rulemaking. The Commission is also considering adding a new fee for requests for expedited review of an agreement filing.

DATES: *Comments are due on or before:* April 18, 2016.

ADDRESSES: You may submit comments, identified by the docket number in the heading of this document, by any of the following methods:

- *Email: secretary@fmc.gov.* Include in the subject line: ''Docket No. 16–06, Comments on Update of User Fees.'' Comments should be attached to the email as a Microsoft Word or text-searchable PDF document. Comments containing confidential information should not be submitted by email.
- *Mail:* Karen V. Gregory, Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573–0001. *Phone:* (202) 523–5725. *Email: secretary@fmc.gov.*
- *Docket:* For access to the docket to read background documents or comments received, go to: *http://www.fmc.gov/16-06,* select Docket No. 16–06 from the drop-down list next to ''Proceeding or Inquiry Number'' and click the ''Search'' option.

FOR FURTHER INFORMATION CONTACT: Karen V. Gregory, Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573–0001. *Phone:* (202) 523–5725. *Email: secretary@fmc.gov.*

SUPPLEMENTARY INFORMATION: The Commission's current user fees are based on an assessment of fiscal year 2004 costs and have not been updated since 2005.[1] Consequently, many of the current user fees no longer represent the Commission's actual costs for providing services. The Commission is seeking comments on possible adjustments to its user fees based on fiscal year 2015 costs assessed through a new methodology for calculating costs for services provided by the Commission.

The Independent Offices Appropriation Act of 1952 (IOAA), 31 U.S.C. 9701, authorizes agencies to establish charges (user fees) for services and benefits that it provides to specific recipients. Under the IOAA, charges must be fair and based on the costs to the Government, the value of the service or thing to the recipient, the public policy or interest served, and other relevant facts. The IOAA also provides that regulations implementing user fees are subject to policies prescribed by the President, which are currently set forth in OMB Circular A–25, *User Charges* (revised July 8, 1993).

OMB Circular A–25 requires agencies to conduct a periodic reassessment of costs and, if necessary, adjust or establish new fees. Under OMB Circular A–25, fees should be established for Government-provided services that confer benefits on identifiable recipients over and above those benefits received by the general public. OMB Circular A–25 also provides that agencies should determine or estimate costs based on the best available records in the agency, and that cost computations must cover the direct and indirect costs to the agency providing the activity.

[1] The Commission established the fee for filing or updating OTI license applications electronically in 2007.

Fee Assessment Methodology

Applying the guidance for assessing fees provided in OMB Circular A–25, the Commission has revised its methodology for computing fees to determine the full costs of providing services.[2] A detailed description of the methodology, as established by the Commission's Office of Budget and Finance, is available in the docket to this rulemaking.

The Commission has developed data on the time and cost involved in providing particular services to arrive at the updated direct and indirect labor costs for those services. As part of its assessment, the Commission utilized salaries of Full Time Equivalents (FTEs) assigned to fee-generating activities to identify the various direct and indirect costs associated with providing services. Direct labor costs include clerical and professional time expended on an activity. Indirect labor costs include labor provided by bureaus and offices that provide direct support to the fee-generating offices in their efforts to provide services, and include managerial and supervisory costs associated with providing a particular service. Other indirect costs include Government overhead costs, such as fringe benefits and other wage-related Government contributions contained in OMB Circular A–76, *Performance of Commercial Activities* (revised May 29, 2003) and office general and administrative expenses.[3] The sum of these indirect cost components gives an indirect cost factor that is added to the direct labor costs of an activity to arrive at the fully distributed cost.

Proposed Fee Adjustments

The adjustments the Commission is considering would allow some user fees to remain unchanged; increase, reduce, or delete other fees; and add one new fee. The Commission is considering making upward adjustments of fees to reflect increases in salary and indirect (overhead) costs. For some services, an increase in processing or review time may account for all or part of increase

[2] The revised methodology also satisfies the recommendations set forth in the Commission's Office of Inspector General's report, *Review of FMC's User Fee Calculations* (May 27, 2010).

[3] OMB Circular A–76 lists the following indirect labor costs: leave and holidays, retirement, worker's compensation, awards, health and life insurance, and Medicare. General and administrative costs are expressed as a percentage of basic pay. These include all salaries and overhead such as rent, utilities, supplies, and equipment allocated to Commission offices that provide direct support to fee-generating offices such as the Office of the Managing Director, Office of Information Technology, Office of Human Resources, Office of Budget and Finance, and the Office of Management Services.

in the amount of the proposed fees. For other services, fees may be lower than current fees due to an overall reduced cost to provide those services.

The Commission assesses nominal processing fees for services related to the filing of complaints and certain petitions; various public information services, such as records searches, document copying, and admissions to practice; and filing applications for special permission. Due to an increase in the processing cost of these services, the Commission is considering adjusting upward these administrative fees based on an assessment of fiscal year 2015 costs. Similarly, the Commission is considering adjusting upward the user fees associated with agreements filed under 46 CFR part 535 because of the increase in reviewing and analyzing the agreement filings.

With respect to OTI license applications, the Commission offers lower fees for electronic filing of license applications through its FMC–18 automated filing system. The Commission first adopted lower fees in 2007 to promote the use of the electronic filing option by the public and to facilitate the transfer of OTI records from a paper-based format to a more convenient and accessible digital format.[4] As intended, the majority of OTI applicants are using the automated system and paying the reduced fees. In fiscal year 2015, the total number of OTI applicants using the automated filing system at the reduced fees was 619, and the total number of OTI applicants filing their applications in paper format at the higher fees was 44. This program has been successful and the Commission is considering continuing to offer the lower fees for electronic filing at the current fee amounts.[5]

The Commission is considering decreasing fees for the Commission's services to passenger vessel operators (PVOs) under 46 CFR part 540. These services include reviewing and processing the application for certification on performance; the supplemental application on performance for the addition or substitution of a vessel; the application for certification on casualty, and the supplemental application on casualty for the addition or substitution of a vessel.

For reviews of requests filed under FOIA and requests for revisions of clerical errors on service contracts, the Commission is considering lowering the fees due to the change in grade level of the professional staff that review FOIA requests.

The Commission is considering repealing the user fee for obtaining a copy of the Regulated Persons Index given that it is currently available on the Commission's Web site. The Commission is also considering repealing the current fee assessed for adding an interested party to a specific docket mailing list under § 503.50(d), and the fee assessed under § 535.401(h) for obtaining a Commission agreement database report.

In addition, the Commission is considering repealing the user fee for filing petitions for rulemaking found in § 503.51(a). This would align the Commission with the practice of other agencies, the vast majority of which do not impose a fee to file petitions for rulemaking. Repealing this user fee would also enhance access to the rulemaking process, thereby making it fairer and more open.

The Commission is also considering adding a new fee for processing requests for expedited review of an agreement under § 535.605, which allows filing parties to request that the 45-day waiting period be shortened to meet an operational urgency. The Commission believes that a fee for processing such requests is necessary to recoup the cost of publishing a separate **Federal Register** notice for expedited review. This new fee would be assessed in addition to the underlying agreement filing fee required by § 535.401(g).

The Commission welcomes comments on its new fee calculation methodology and possible fee adjustments.

By the Commission.

Karen V. Gregory,

Secretary.

[FR Doc. 2016–06241 Filed 3–18–16; 8:45 am]

BILLING CODE 6731–AA–P

[4] FMC Docket No. 07–08, *Optional Method of Filing Form FMC–18, Application for a License as an Ocean Transportation Intermediary,* 72 FR 44976, 44977 (Aug. 10, 2007).

[5] While the automated filing system allows users to file their applications electronically, the automated system for processing the applications is still under development. The fees for the electronic filing of OTI applications will be addressed by the Commission when the entire FMC–18 automated system is complete and operational, and the costs of the system and its impact on the review of OTI applications can be quantified.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 151211999–6209–01]

RIN 0648–BF62

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Groundfish Fishery; Framework Adjustment 55

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

ACTION: Proposed rule; request for comments.

SUMMARY: This action proposes approval of, and regulations to implement, Framework Adjustment 55 to the Northeast Multispecies Fishery Management Plan. This rule would set 2016–2018 catch limits for all 20 groundfish stocks, adjust the groundfish at-sea monitoring program, and adopt several sector measures. This action is necessary to respond to updated scientific information and achieve the goals and objectives of the Fishery Management Plan. The proposed measures are intended to help prevent overfishing, rebuild overfished stocks, achieve optimum yield, and ensure that management measures are based on the best scientific information available.

DATES: Comments must be received by April 5, 2016.

ADDRESSES: You may submit comments, identified by NOAA–NMFS–2016–0019, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal.

1. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0019;*
2. Click the ''Comment Now!'' icon and complete the required fields; and
3. Enter or attach your comments.

- *Mail:* Submit written comments to John K. Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on the Proposed Rule for Groundfish Framework Adjustment 55.''

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 us. 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. We will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Copies of Framework Adjustment 55, including the draft Environmental Assessment, the Regulatory Impact Review, and the Initial Regulatory Flexibility Analysis prepared by the New England Fishery Management Council in support of this action are available from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The supporting documents are also accessible via the Internet at: *http://www.nefmc.org/management-plans/northeast-multispecies* or *http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/multispecies*.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule should be submitted to the Regional Administrator at the address above and to the Office of Management and Budget by email at *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Aja Szumylo, Fishery Policy Analyst, phone: 978–281–9195; email: *Aja.Szumylo@noaa.gov*.

SUPPLEMENTARY INFORMATION:

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1. Summary of Proposed Measures
2. Status Determination Criteria
3. 2016 Fishing Year Shared U.S./Canada Quotas
4. Catch Limits for the 2016–2018 Fishing Years
5. Default Catch Limits for the 2019 Fishing Year
6. Groundfish At-Sea Monitoring Program Adjustments
7. Other Framework 55 Measures
8. Sector Measures for the 2016 Fishing Year
9. 2016 Fishing Year Annual Measures Under Regional Administrator Authority
10. Regulatory Corrections Under Regional Administrator Authority

1. Summary of Proposed Measures

This action would implement the management measures in Framework Adjustment 55 to the Northeast Multispecies Fishery Management Plan (FMP). The Council deemed the proposed regulations consistent with, and necessary to implement, Framework 55, in a February 25, 2016, letter from Council Chairman E.F. ''Terry'' Stockwell to Regional Administrator John Bullard. Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), we are required to publish proposed rules for comment after preliminarily determining whether they are consistent with applicable law. The Magnuson-Stevens Act permits us to approve, partially approve, or disapprove measures proposed by the Council based only on whether the measures are consistent with the fishery management plan, plan amendment, the Magnuson-Stevens Act and its National Standards, and other applicable law. Otherwise, we must defer to the Council's policy choices. We are seeking comment on the Council's proposed measures in Framework 55 and whether they are consistent with the Northeast Multispecies FMP and Amendment 16, the Magnuson-Stevens Act and its National Standards, and other applicable law. Through Framework 55, the Council proposes to:

- Set 2016–2018 specifications for all 20 groundfish stocks;
- Set fishing year 2016 shared U.S./Canada quotas for Georges Bank (GB) yellowtail flounder and Eastern GB cod and haddock;
- Modify the industry-funded sector at-sea monitoring program to make the program more cost-effective, while still ensuring that groundfish catch is reliably monitored;
- Create a new sector;
- Modify the sector approval process so that new sectors would not have to be approved through a Council framework or amendment process;
- Adjust gear requirements to improve the enforceability of selective trawl gear;
- Remove the general Gulf of Maine (GOM) cod prohibition for recreational anglers established in Framework 53 (other recreational measures will be implemented in a separate rulemaking); and
- Allow sectors to transfer GB cod quota from the eastern U.S./Canada Area to the western area.

This action also proposes a number of other measures that are not part of Framework 55, but that may be considered and implemented under our authority specified in the FMP. We are proposing these measures in conjunction with the Framework 55 proposed measures for expediency purposes, and because these measures are related to the catch limits proposed as part of Framework 55. The additional measures proposed in this action are listed below.

- *Management measures necessary to implement sector operations plans*—this action proposes one new sector regulatory exemption and annual catch entitlements for 19 sectors for the 2016 fishing year.
- *Management measures for the common pool fishery*—this action proposes fishing year 2015 trip limits for the common pool fishery.
- *Other regulatory corrections*—we propose several administrative revisions to the regulations to clarify their intent, correct references, remove unnecessary text, and make other minor edits. Each proposed correction is described in the section ''10. Regulatory Corrections Under Regional Administrator Authority.''

2. Status Determination Criteria

The Northeast Fisheries Science Center (NEFSC) conducted operational stock assessment updates in 2015 for all 20 groundfish stocks. The final report for the operational assessment updates is available on the NEFSC Web site: *http://www.nefsc.noaa.gov/groundfish/operational-assessments-2015/*. This action proposes to revise status determination criteria, as necessary, and provide updated numerical estimates of these criteria, in order to incorporate the results of the 2015 stock assessments. Table 1 provides the updated numerical estimates of the status determination criteria, and Table 2 summarizes changes in stock status based on the 2015 assessment updates. Stock status did not change for 15 of the 20 stocks, worsened for 2 stocks (Southern New England/Mid-Atlantic (SNE/MA) yellowtail flounder and GB winter flounder), improved for 1 stock (Northern windowpane flounder), and became more uncertain for 2 stocks (GB cod and Atlantic halibut).

As described in more detail below, status determination relative to reference points is no longer possible for GB cod and Atlantic halibut. However, the proposed changes do not affect the rebuilding plans for these stocks. The rebuilding plan for GB cod has an end date of 2026, and the rebuilding plan for halibut has an end date of 2056. Although numerical estimates of status determination criteria are currently not available, to ensure that rebuilding progress is made, catch limits will continue to be set at levels that the Council's Scientific and Statistical Committee (SSC) determines will prevent overfishing. Additionally, at whatever point the stock assessment for GB cod and halibut can provide biomass estimates, these estimates will be used to evaluate progress towards the rebuilding targets.

TABLE 1—NUMERICAL ESTIMATES OF STATUS DETERMINATION CRITERIA

Stock	Biomass target (SSB_{MSY} or Proxy (mt))	Maximum fishing mortality threshold (F_{MSY} or Proxy)	MSY (mt)
GB Cod	NA	NA	NA
M=0.2 Model	40,187	0.185	6,797
GOM Cod			
M_{ramp} Model	59,045	0.187	10,043
GB Haddock	108,300	0.39	24,900
GOM Haddock	4,623	0.468	1,083
GB Yellowtail Flounder	NA	NA	NA
SNE/MA Yellowtail Flounder	1,959	0.35	541
CC/GOM Yellowtail Flounder	5,259	0.279	1,285
American Plaice	13,107	0.196	2,675
Witch Flounder	9,473	0.279	1,957
GB Winter Flounder	6,700	0.536	2,840
GOM Winter Flounder	NA	0.23 exploitation rate	NA
SNE/MA Winter Flounder	26,928	0.325	7,831
Acadian Redfish	281,112	0.038	10,466
White Hake	32,550	0.188	5,422
Pollock	105,226	0.277	19,678
Northern Windowpane Flounder	1.554 kg/tow	0.45 c/i	700
Southern Windowpane Flounder	0.247 kg/tow	2.027 c/i	500
Ocean Pout	4.94 kg/tow	0.76 c/i	3,754
Atlantic Halibut	NA	NA	NA
Atlantic Wolffish	1,663	0.243	244

SSB = Spawning Stock Biomass; MSY = Maximum Sustainable Yield; F = Fishing Mortality; M = Natural Mortality.
Note. A brief explanation of the two assessment models for GOM cod is provided in the section "4. Catch Limits for the 2016–2018 Fishing Years."

TABLE 2—SUMMARY OF CHANGES TO STOCK STATUS

Stock	Previous assessment		2015 Assessment	
	Overfishing?	Overfished?	Overfishing?	Overfished?
GB Cod	Yes	Yes	Yes	Yes
GOM Cod	Yes	Yes	Yes	Yes
GB Haddock	No	No	No	No
GOM Haddock	No	No	No	No
GB Yellowtail Flounder	Unknown	Unknown	Unknown	Unknown
SNE/MA Yellowtail Flounder	No	No	Yes	Yes
CC/GOM Yellowtail Flounder	Yes	Yes	Yes	Yes
American Plaice	No	No	No	No
Witch Flounder	Yes	Yes	Yes	Yes
GB Winter Flounder	No	No	Yes	Yes
GOM Winter Flounder	No	Unknown	No	Unknown
SNE/MA Winter Flounder	No	Yes	No	Yes
Acadian Redfish	No	No	No	No
White Hake	No	No	No	No
Pollock	No	No	No	No
Northern Windowpane Flounder	Yes	Yes	No	Yes
Southern Windowpane Flounder	No	No	No	No
Ocean Pout	No	Yes	No	Yes
Atlantic Halibut	No	Yes	No	Yes
Atlantic Wolffish	No	Yes	No	Yes

Georges Bank Cod Status Determination Criteria

The 2015 assessment update for GB cod was an update of the existing 2012 benchmark assessment (available at: *http://www.nefsc.noaa.gov/saw/*). The 2012 benchmark assessment determined that the stock is overfished, and that overfishing is occurring. The peer review panel for the 2015 assessment update concluded that the updated assessment model was not acceptable as a scientific basis for management advice. Several model performance-indicators suggested that the problems in the 2012 benchmark assessment are worse in the 2015 assessment update. There was a strong retrospective pattern in the benchmark assessment that worsened considerably in the assessment update. The retrospective pattern causes the model to overestimate stock biomass and underestimate fishing mortality. Neither assessment could definitively identify the cause of the retrospective pattern, but both cited uncertainty in the estimates of catch and/or natural mortality assumptions used in the assessments. The 2012 benchmark assessment accounted for the retrospective pattern using a retrospective adjustment. However, when the retrospective adjustment was applied in the 2015 assessment update to generate short-term catch projections, the assessment model failed. Based on this, and other indications that the model is no longer a good fit for the

available data, the review panel recommended that an alternative approach should be used to provide management advice.

Although the review panel concluded that GB cod catch advice should be based on an alternative approach, it recommended that the 2012 benchmark assessment is the best scientific information for stock status determination. All information available in the 2015 assessment update indicates that stock size has not increased, and that the condition of the stock is still poor. As a result, based on the 2015 assessment update, the stock remains overfished and overfishing is occurring. However, because the assessment model was not accepted during the 2015 assessment, there are no longer numerical estimates of the status determination criteria.

Atlantic Halibut Status Determination Criteria

This 2015 assessment update for Atlantic halibut is an operational update of the existing 2010 benchmark assessment and a 2012 assessment update (both available at: *http://www.nefsc.noaa.gov/saw/*). The previous assessments determined that the stock was overfished but that overfishing was not occurring. Though the previous assessments were used to provide catch advice and make status determinations for this stock, the review panel for the 2015 assessment update saw a number of limitations in the model and concluded it was no longer an appropriate basis for management advice. All information available for the 2015 assessment indicates that the stock has not increased, and that the condition of the stock is still poor. However, the results of the assessment model indicated that the stock is near or above its unfished biomass and could support a directed fishery. The review panel noted that the model is very simplistic and uses a number of assumptions (*e.g.,* no immigration or emigration from the stock) that are likely not true for the stock. As a result, the review panel recommended a benchmark assessment to develop a new Atlantic halibut stock assessment model and explore stock boundaries. In the interim, the peer review panel recommended that an alternative approach should be used to provide management advice.

3. 2016 Fishing Year U.S./Canada Quotas

Management of Transboundary Georges Bank Stocks

Eastern GB cod, eastern GB haddock, and GB yellowtail flounder are jointly managed with Canada under the United States/Canada Resource Sharing Understanding. Each year, the Transboundary Management Guidance Committee (TMGC), which is a government-industry committee made up of representatives from the U.S. and Canada, recommends a shared quota for each stock based on the most recent stock information and the TMGC's harvest strategy. The TMGC's harvest strategy for setting catch levels is to maintain a low to neutral risk (less than 50 percent) of exceeding the fishing mortality limit for each stock. The harvest strategy also specifies that when stock conditions are poor, fishing mortality should be further reduced to promote stock rebuilding. The shared quotas are allocated between the U.S. and Canada based on a formula that considers historical catch (10-percent weighting) and the current resource distribution (90-percent weighting).

For GB yellowtail flounder, the SSC also recommends an acceptable biological catch (ABC) for the stock, which is typically used to inform the U.S. TMGC's discussions with Canada for the annual shared quota. Although the stock is jointly managed with Canada, and the TMGC recommends annual shared quotas, the United States may not set catch limits that would exceed the SSC's recommendation. The SSC does not recommend ABCs for eastern GB cod and haddock because they are management units of the total GB cod and haddock stocks. The SSC recommends overall ABCs for the total GB cod and haddock stocks. The shared U.S./Canada quota for eastern GB cod and haddock is accounted for in these overall ABCs, and must be consistent with the SSC's recommendation for the total GB stocks.

2016 U.S./Canada Quotas

The Transboundary Resources Assessment Committee (TRAC) conducted assessments for the three transboundary stocks in July 2015, and detailed summaries of these assessments can be found at: *http://www.nefsc.noaa.gov/saw/trac/*. The TMGC met in September 2015 to recommend shared quotas for 2016 based on the updated assessments, and the Council adopted the TMGC's recommendations in Framework 55. The proposed 2016 shared U.S./Canada quotas, and each country's allocation, are listed in Table 3.

TABLE 3—PROPOSED 2016 FISHING YEAR U.S./CANADA QUOTAS (MT, LIVE WEIGHT) AND PERCENT OF QUOTA ALLOCATED TO EACH COUNTRY

Quota	Eastern GB Cod	Eastern GB Haddock	GB Yellowtail Flounder
Total Shared Quota	625	37,000	354
U.S. Quota	138 (22%)	15,170 (41%)	269 (76%)
Canada Quota	487 (78%)	21,830 (59%)	85 (24%)

The Council's proposed 2016 U.S. quota for eastern GB haddock would be a 15-percent reduction compared to 2015. This reduction is due to a reduction in the amount of the shared quota that is allocated to the U.S. The Council's proposed U.S. quotas for eastern GB cod and GB yellowtail flounder would be an 11-percent and 9-percent increase, respectively, compared to 2015, which are a result of an increase in the amounts allocated to the U.S. For a more detailed discussion of the TMGC's 2016 catch advice, see the TMGC's guidance document at: *http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/multispecies/index.html*. Additionally, the proposed 2016 catch limit for GB yellowtail flounder is discussed in more detail in section ''4. Catch Limits for the 2016–2018 Fishing Years.''

The regulations implementing the U.S./Canada Resource Sharing Understanding require that any overages of the U.S. quota for eastern GB cod, eastern GB haddock, or GB yellowtail flounder be deducted from the U.S. quota in the following fishing year. If catch information for the 2015 fishing year indicates that the U.S. fishery exceeded its quota for any of the shared stocks, we will reduce the respective U.S. quotas for the 2016 fishing year in a future management action, as close to May 1, 2016, as possible. If any fishery

that is allocated a portion of the U.S. quota exceeds its allocation and causes an overage of the overall U.S. quota, the overage reduction would only be applied to that fishery's allocation in the following fishing year. This ensures that catch by one component of the fishery does not negatively affect another component of the fishery.

4. Catch Limits for the 2016–2018 Fishing Years

Summary of the Proposed Catch Limits

The catch limits proposed by the Council in this action can be found in Tables 4 through 11. A brief summary of how these catch limits were developed is provided below. More details on the proposed catch limits for each groundfish stock can be found in Appendix III to the Framework 55 Environmental Assessment (see **ADDRESSES** for information on how to get this document).

Through Framework 55, the Council proposes to adopt catch limits for all 20 groundfish stocks for the 2016–2018 fishing years based on the 2015 operational assessment updates. In addition, the Council proposes to update the 2016 catch limits for GB cod and haddock based on the proposed U.S./Canada quotas for the portions of these stocks managed jointly with Canada. Catch limit increases are proposed for 10 stocks; however, for a number of stocks, the catch limits proposed in this action are substantially lower than the catch limits set for the 2015 fishing year (with decreases ranging from 14 to 67 percent). Table 4 details the percent change in the 2016 catch limit compared to the 2015 fishing year.

Overfishing Limits and Acceptable Biological Catches

The overfishing limit (OFL) serves as the maximum amount of fish that can be caught in a year without resulting in overfishing. The OFL for each stock is calculated using the estimated stock size and F_{MSY} (*i.e.,* the fishing mortality rate that, if applied over the long term, would result in maximum sustainable yield). The OFL does not account for scientific uncertainty, so the SSC typically recommends an ABC that is lower than the OFL in order to account for this uncertainty. Usually, the greater the amount of scientific uncertainty, the lower the ABC is set compared to the OFL. For GB cod, GB haddock, and GB yellowtail flounder, the total ABC is then reduced by the amount of the Canadian quota (see Table 3 for the Canadian share of these stocks). Additionally, although GB winter flounder and Atlantic halibut are not jointly managed with Canada, there is some Canadian catch of these stocks. Because the total ABC must account for all sources of fishing mortality, expected Canadian catch of GB winter flounder (87 mt) and Atlantic halibut (34 mt) is deducted from the total ABC. The U.S. ABC is the amount available to the U.S. fishery after accounting for Canadian catch. Additional details about the Council's proposed ABCs for SNE/MA yellowtail flounder and witch flounder are provided below.

TABLE 4—PROPOSED FISHING YEARS 2016–2018 OVERFISHING LIMITS AND ACCEPTABLE BIOLOGICAL CATCHES

[mt, live weight]

Stock	2016		Percent change from 2015	2017		2018	
	OFL	U.S. ABC		OFL	U.S. ABC	OFL	U.S. ABC
GB Cod	1,665	762	-62%	1,665	1,249	1,665	1,249
GOM Cod	667	500	30%	667	500	667	500
GB Haddock	160,385	56,068	130%	258,691	48,398	358,077	77,898
GOM Haddock	4,717	3,630	150%	5,873	4,534	6,218	4,815
GB Yellowtail Flounder	Unknown	269	8%	Unknown	354		
SNE/MA Yellowtail Flounder	Unknown	267	-62%	Unknown	267	Unknown	267
CC/GOM Yellowtail Flounder	555	427	-22%	707	427	900	427
American Plaice	1,695	1,297	-16%	1,748	1,336	1,840	1,404
Witch Flounder	521	460	-41%	732	460	954	460
GB Winter Flounder	957	668	-67%	1,056	668	1,459	668
GOM Winter Flounder	1,080	810	59%	1,080	810	1,080	810
SNE/MA Winter Flounder	1,041	780	-53%	1,021	780	1,587	780
Redfish	13,723	10,338	-14%	14,665	11,050	15,260	11,501
White Hake	4,985	3,754	-20%	4,816	3,624	4,733	3,560
Pollock	27,668	21,312	28%	32,004	21,312	34,745	21,312
N. Windowpane Flounder	243	182	21%	243	182	243	182
S. Windowpane Flounder	833	623	14%	833	623	833	623
Ocean Pout	220	165	-30%	220	165	220	165
Atlantic Halibut	210	124	24%	210	124	210	124
Atlantic Wolffish	110	82	17%	110	82	110	82

SNE/MA = Southern New England/Mid-Atlantic; CC = Cape Cod; N = Northern; S = Southern.
Note: An empty cell indicates no OFL/ABC is adopted for that year. These catch limits will be set in a future action.

Southern New England/Mid-Atlantic Yellowtail Flounder

The 2015 operational assessment results suggest a dramatic decline in condition of the SNE/MA yellowtail flounder stock compared to the 2012 benchmark assessment (available at: *http://www.nefsc.noaa.gov/saw/*). Based on the results of the 2012 assessment, we declared the stock rebuilt. However, the results of the 2015 operational assessments suggest that the stock is overfished and that overfishing is occurring. There was also a major retrospective pattern in the 2015 operational assessment. In advance of the operational assessments, guidelines were defined for the assessments, one of

which required the application of an adjustment to the terminal year biomass in assessments with major retrospective patterns. However, for SNE/MA yellowtail flounder, the assessment peer review panel did not accept the retrospective adjustment because the adjustment led to failures in the short-term catch projections, and because the model had no other apparent issues. The peer review panel ultimately accepted the assessment without the retrospective adjustment.

The SSC recognized that the stock is in poor condition, and that a substantial reduction in catch is necessary. The SSC expressed concerned that the assessment for SNE/MA yellowtail flounder did not follow the established guidelines and discussed whether it should not have passed peer review. However, the SSC recognized that the assessment guidelines did not address cases where a retrospective adjustment resulted in model failure. Given this scientific uncertainty, the SSC concluded that the catch projections from the assessment should not be used as the sole basis for catch advice. The SSC ultimately recommended a 3-year constant ABC of 276 mt based on the average of the assessment catch projections and the estimate of 2015 catch, and recommended that the OFL be specified as unknown. In support of this recommendation, it noted that this compromise approach uses the assessment outcome as one bound for ABC advice, but does not adhere too strongly to those outcomes in light of the substantial uncertainties and procedural issues. The Council's proposed ABC is a 62-percent decrease from the 2015 ABC.

Witch Flounder

The 2015 operational assessment update for witch flounder determined that the stock is overfished, and overfishing is occurring. The stock status is unchanged from the 2012 assessment update and 2008 benchmark assessment for this stock. Witch flounder is under a 7-year rebuilding plan that has a target end date of 2017. Based on the 2015 assessment update, the 2014 spawning stock biomass is at only at 22 percent of the biomass target, and the stock is not expected to reach the 2017 rebuilding target even in the absence of fishing mortality. An important source of uncertainty for this assessment is a major retrospective pattern, which causes the model to underestimate fishing mortality and overestimate stock biomass and recruitment; the assessment was unable to identify the cause of the retrospective pattern.

The SSC initially recommended a witch flounder OFL of 513 mt, and an ABC of 394 mt, based on 75 percent of F_{MSY}. At its December 2015 meeting, the Council recommended the SSC's initial witch flounder OFL and ABC recommendations. The 394-mt ABC represented a 50-percent decrease from the 2015 ABC. Industry members raised strong concern for the poor performance of the assessment model and that the reduction in the witch flounder ABC has the potential to severely limit the groundfish fishery in all areas (Southern New England, Gulf of Maine, and Georges Bank). In response to these concerns, the Council requested that the SSC reconsider the witch flounder ABC using additional information about incidental, non-target catch of the stock by groundfish vessels that was not available to the SSC when it made its initial ABC recommendation. The Council noted that it would be willing to accept the temporary risk associated with an ABC that equals the OFL of 513 mt.

The SSC met on January 20, 2016, to review the biological and economic impacts of increasing the witch flounder ABC above its initial recommendation. The Groundfish Plan Development Team also updated the 2015 catch estimate for witch flounder, which slightly increased the OFL estimate to 521 mt, and the 75 percent of F_{MSY} estimate to 399 mt.

The SSC acknowledged that an ABC closer to the OFL would be expected to result in higher rates of fishing mortality, higher probabilities of overfishing, and lower resulting biomass in 2017 compared to its initial ABC recommendation. The SSC also cautioned that a history of overly optimistic biomass projections and the risk of overestimating the OFL likely mean higher biological risks with higher ABCs. Biomass projections out to 2018, however, suggest minimal biological difference between the initial ABC recommendation and the OFL because of the short timeframe and relatively small differences in the recommended catch amounts. In each instance, however, biomass is expected to increase from the level estimated in the 2015 assessment.

An economic model of groundfish fishery suggested no overall increase in revenue with increases in the witch flounder ABC up to the OFL due to the likelihood that low quotas for other key stocks (GOM cod, GB cod, and SNE/MA yellowtail flounder) would be more restrictive. Industry members disagreed with the economic model results. They noted that the results are overly optimistic given current fishery conditions, and that they do not reflect the impact of a reduced witch flounder ABC on individual sectors.

The SSC noted that it is possible that a lower ABC for witch flounder could show economic benefits at the fishery-wide level, but could still impose economic costs at the vessel or community level. After weighing the uncertainties in the biological and economic information, the SSC ultimately recommended that that the Council set the ABC no higher than 500 mt. The SSC's discussion of its revised witch flounder ABC recommendation is available here: *http://s3.amazonaws.com/nefmc.org/1_SSC_response_witchflounder_Jan2016_FINAL.pdf.*

The Council discussed the SSC's revised witch flounder ABC recommendation on January 27, 2016, and recommended a witch flounder ABC of 460 mt, which is the midpoint between the initial ABC recommendation of 399 mt and the OFL of 521 mt, for the 2016–2018 fishing years. This recommendation is 40 mt lower that the SSC's upper limit for the ABC, and was recommended by the Council to reduce the risk of overfishing while providing some flexibility for groundfish vessels to prosecute other healthy groundfish stocks such as haddock, redfish, and pollock.

An important factor in the revised ABC recommendation for witch flounder ABC is that a benchmark assessment for witch flounder will be conducted in fall of 2016, in time to re-specify witch flounder catch limits for the 2017 fishing year. This new stock assessment information is also expected to provide additional information on the rebuilding potential for witch flounder and potential adjustments to the rebuilding plan. Thus, although the Council proposes a 3-year constant ABC, the catch limits adopted are expected to be in place for only 1 year.

Annual Catch Limits

Development of Annual Catch Limits

The U.S. ABC for each stock is divided among the various fishery components to account for all sources of fishing mortality. First, an estimate of catch expected from state waters and the ''other'' sub-component (*i.e.,* non-groundfish fisheries) is deducted from the U.S. ABC. These sub-components are not subject to specific catch controls by the FMP. As a result, the state waters and other sub-components are not allocations, and these components of the fishery are not subject to accountability measures if the catch limits are exceeded. After the state and

other sub-components are deducted, the remaining portion of the U.S. ABC is distributed to the fishery components that receive an allocation for the stock. Components of the fishery that receive an allocation are subject to accountability measures if they exceed their respective catch limit during the fishing year.

Once the U.S. ABC is divided, sub-annual catch limits (sub-ACLs) are set by reducing the amount of the ABC distributed to each component of the fishery to account for management uncertainty. Management uncertainty is the likelihood that management measures will result in a level of catch greater than expected. For each stock and fishery component, management uncertainty is estimated using the following criteria: Enforceability and precision of management measures, adequacy of catch monitoring, latent effort, and catch of groundfish in non-groundfish fisheries. The total ACL is the sum of all of the sub-ACLs and ACL sub-components, and is the catch limit for a particular year after accounting for both scientific and management uncertainty. Landings and discards from all fisheries (commercial and recreational groundfish fisheries, state waters, and non-groundfish fisheries) are counted against the ACL for each stock.

Sector and Common Pool Allocations

For stocks allocated to sectors, the commercial groundfish sub-ACL is further divided into the non-sector (common pool) sub-ACL and the sector sub-ACL, based on the total vessel enrollment in sectors and the cumulative Potential Sector Contributions (PSCs) associated with those sectors. The preliminary sector and common pool sub-ACLs proposed in this action are based on fishing year 2016 PSCs and fishing year 2015 sector rosters. Sector specific allocations for each stock can be found in this rule in section ''8. Sector Administrative Measures.''

Common Pool Total Allowable Catches

The common pool sub-ACL for each stock (except for SNE/MA winter flounder, windowpane flounder, ocean pout, Atlantic wolffish, and Atlantic halibut) is further divided into trimester total allowable catches (TACs). The distribution of the common pool sub-ACLs into trimesters was adopted in Amendment 16 to the FMP and is based on recent landing patterns. Once we project that 90 percent of the trimester TAC is caught for a stock, the trimester TAC area for that stock is closed for the remainder of the trimester to all common pool vessels fishing with gear capable of catching the pertinent stock. Any uncaught portion of the TAC in Trimester 1 or Trimester 2 will be carried forward to the next trimester. Overages of the Trimester 1 or Trimester 2 TAC will be deducted from the Trimester 3 TAC. Any overages of the total common pool sub-ACL will be deducted from the following fishing year's common pool sub-ACL for that stock. Uncaught portions of the Trimester 3 TAC may not be carried over into the following fishing year. Table 8 summarizes the common pool trimester TACs proposed in this action.

Incidental catch TACs are also specified for certain stocks of concern (*i.e.,* stocks that are overfished or subject to overfishing) for common pool vessels fishing in the special management programs (*i.e.,* special access programs (SAPs) and the Regular B Days-at-Sea (DAS) Program), in order to limit the catch of these stocks under each program. Tables 9 through 11 summarize the proposed Incidental Catch TACs for each stock and the distribution of these TACs to each special management program.

Closed Area I Hook Gear Haddock Special Access Program

Overall fishing effort by both common pool and sector vessels in the Closed Area I Hook Gear Haddock SAP is controlled by an overall TAC for GB haddock, which is the target species for this SAP. The maximum amount of GB haddock that may be caught in any fishing year is based on the amount allocated to this SAP for the 2004 fishing year (1,130 mt), and adjusted according to the growth or decline of the western GB haddock biomass in relationship to its size in 2004. Based on this formula, the Council's proposed GB Haddock TAC for this SAP is 2,448 mt for the 2015 fishing year. Once this overall TAC is caught, the Closed Area I Hook Gear Haddock SAP will be closed to all groundfish vessels for the remainder of the fishing year.

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Table 5. Proposed Catch Limits for the 2016 Fishing Year (mt, live weight)

Stock	Total ACL	Total Groundfish Fishery	Preliminary Sector	Preliminary Common Pool	Recreational Fishery	Midwater Trawl Fishery	Scallop Fishery	Small-Mesh Fisheries	State Waters sub-component	Other sub-component
GB Cod	730	608	595	13					23	99
GOM Cod	473	437	273	8	157				27	10
GB Haddock	53,309	51,667	51,209	458		521			561	561
GOM Haddock	3,430	3,344	2,385	31	928	34			26	26
GB Yellowtail Flounder	261	211	207	4			42	5	NA	3
SNE/MA Yellowtail Flounder	255	182	145	37			39		5	29
CC/GOM Yellowtail Flounder	409	341	325	16					43	26
American Plaice	1,235	1,183	1,160	23					26	26
Witch Flounder	441	370	361	8					12	59
GB Winter Flounder	650	590	584	6					NA	60
GOM Winter Flounder	776	639	604	35					122	16
SNE/MA Winter Flounder	749	585	514	71					70	94
Redfish	9,837	9,526	9,471	55					103	207
White Hake	3,572	3,459	3,434	25					38	75
Pollock	20,374	17,817	17,705	112					1,279	1,279
N. Windowpane Flounder	177	66	na	66					2	109
S. Windowpane Flounder	599	104	na	104			209		37	249
Ocean Pout	155	137	na	137					2	17
Atlantic Halibut	119	91	na	91					25	4
Atlantic Wolffish	77	72	na	72					1	3

Table 6. Proposed Catch Limits for the 2017 Fishing Year (mt, live weight)

Stock	Total ACL	Total Groundfish Fishery	Preliminary Sector	Preliminary Common Pool	Recreational Fishery	Midwater Trawl Fishery	Scallop Fishery	Small-Mesh Fisheries	State Waters sub-component	Other sub-component
GB Cod	1,197	608	975	22					37	162
GOM Cod	473	437	273	8	157				27	10
GB Haddock	46,017	44,599	44,204	395		450			484	484
GOM Haddock	4,285	4,177	2,979	39	1,160	42			33	33
GB Yellowtail Flounder	343	278	273	5			55	7	NA	4
SNE/MA Yellowtail Flounder	255	187	145	37			39		5	29
CC/GOM Yellowtail Flounder	409	341	325	16					43	26
American Plaice	1,272	1,218	1,195	23					27	27
Witch Flounder	441	370	361	8					12	59
GB Winter Flounder	650	590	584	6					NA	60
GOM Winter Flounder	776	639	604	35					122	16
SNE/MA Winter Flounder	749	585	514	71					70	94
Redfish	10,514	10,183	10,124	59					111	221
White Hake	3,448	3,340	3,315	24					36	72
Pollock	20,374	17,817	17,705	112					1,279	1,279
N. Windowpane Flounder	177	66	na	66					2	109
S. Windowpane Flounder	599	104	na	104			209		37	249
Ocean Pout	155	137	na	137					2	17
Atlantic Halibut	119	91	na	91					25	4
Atlantic Wolffish	77	72	na	72					1	3

Table 7. Proposed Catch Limits for the 2018 Fishing Year (mt, live weight)

Stock	Total ACL	Total Groundfish Fishery	Preliminary Sector	Preliminary Common Pool	Recreational Fishery	Midwater Trawl Fishery	Scallop Fishery	Small-Mesh Fisheries	State Waters sub-component	Other sub-component
GB Cod	1,197	608	975	22					37	162
GOM Cod	473	437	273	8	157				27	10
GB Haddock	74,065	71,783	71,147	636		724			779	779
GOM Haddock	4,550	4,436	3,163	39	1,231	45			35	35
GB Yellowtail Flounder										
SNE/MA Yellowtail Flounder	255	179	142	37			38		5	29
CC/GOM Yellowtail Flounder	409	341	325	16					43	26
American Plaice	1,337	1,280	1,256	24					28	28
Witch Flounder	441	370	361	8					12	59
GB Winter Flounder	650	590	584	6					NA	60
GOM Winter Flounder	776	639	604	35					122	16
SNE/MA Winter Flounder	749	585	514	71					70	94
Redfish	10,943	10,598	10,537	61					115	230
White Hake	3,387	3,281	3,257	24					36	71
Pollock	20,374	17,817	17,705	112					1,279	1,279
N. Windowpane Flounder	177	66	na	66					2	109
S. Windowpane Flounder	599	104	na	104			209		37	249
Ocean Pout	155	137	na	137					2	17
Atlantic Halibut	119	91	na	91					25	4
Atlantic Wolffish	77	72	na	72					1	3

Table 8. Proposed Fishing Years 2016-2018 Common Pool Trimester TACs (mt, live weight)

Stock	2016			2017			2018		
	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3
GB Cod	3.3	4.9	5.0	5.4	8.0	8.2	5.4	8.0	8.2
GOM Cod	2.1	2.7	2.8	2.1	2.7	2.8	2.1	2.7	2.8
GB Haddock	123.5	151.0	183.0	106.6	130.3	158.0	171.6	209.8	254.3
GOM Haddock	8.4	8.1	14.6	10.5	10.1	18.2	11.1	10.7	19.3
GB Yellowtail Flounder	0.8	1.2	2.1	1.0	1.6	2.8			
SNE/MA Yellowtail Flounder	8.2	14.4	16.4	8.1	14.3	16.2	8.0	14.1	16.0
CC/GOM Yellowtail Flounder	5.5	5.5	4.7	5.5	5.5	4.7	5.5	5.5	4.7
American Plaice	5.4	8.1	9.1	5.6	8.4	9.3	5.9	8.8	9.8
Witch Flounder	2.3	2.6	3.6	2.3	2.6	3.6	2.3	2.6	3.6
GB Winter Flounder	0.5	1.4	3.9	0.5	1.4	3.9	0.5	1.4	3.9
GOM Winter Flounder	12.8	13.2	8.7	12.8	13.2	8.7	12.8	13.2	8.7
Redfish	13.7	17.0	24.2	14.7	18.2	25.9	15.3	19.0	26.9
White Hake	9.5	7.8	7.8	9.2	7.5	7.5	9.0	7.4	7.4
Pollock	31.4	39.3	41.5	31.4	39.3	41.5	31.4	39.3	41.5

Note. An empty cell indicates that no catch limit has been set yet for these stocks. These catch limits will be set in a future management action.

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TABLE 9—PROPOSED COMMON POOL INCIDENTAL CATCH TACS FOR THE 2016–2018 FISHING YEARS

[mt, live weight]

Stock	Percentage of common pool sub-ACL	2016	2017	2018
GB Cod	2	0.26	0.43	0.43
GOM Cod	1	0.08	0.08	0.08
GB Yellowtail Flounder	2	0.08	0.11	0.00
CC/GOM Yellowtail Flounder	1	0.16	0.16	0.16
American Plaice	5	1.13	1.17	1.22
Witch Flounder	5	0.42	0.42	0.42
SNE/MA Winter Flounder	1	0.71	0.71	0.71

TABLE 10—PERCENTAGE OF INCIDENTAL CATCH TACS DISTRIBUTED TO EACH SPECIAL MANAGEMENT PROGRAM

Stock	Regular B DAS Program	Closed Area I Hook Gear Haddock SAP	Eastern US/CA Haddock SAP
GB Cod	50	16	34
GOM Cod	100		
GB Yellowtail Flounder	50		50
CC/GOM Yellowtail Flounder	100		
American Plaice	100		
Witch Flounder	100		
SNE/MA Winter Flounder	100		
White Hake	100		

TABLE 11—PROPOSED FISHING YEARS 2016–2018 INCIDENTAL CATCH TACS FOR EACH SPECIAL MANAGEMENT PROGRAM

[mt, live weight]

Stock	Regular B DAS Program			Closed Area I Hook Gear Haddock SAP			Eastern U.S./Canada Haddock SAP		
	2016	2017	2018	2016	2017	2018	2016	2017	2018
GB Cod	0.13	0.22	0.22	0.04	0.07	0.07	0.09	0.15	0.15
GOM Cod	0.08	0.08	0.08	n/a	n/a	n/a	n/a	n/a	n/a
GB Yellowtail Flounder	0.04	0.05	0.00	n/a	n/a	n/a	0.04	0.05	0.00
CC/GOM Yellowtail Flounder	0.16	0.16	0.16	n/a	n/a	n/a	n/a	n/a	n/a
American Plaice	1.13	1.17	1.22	n/a	n/a	n/a	n/a	n/a	n/a
Witch Flounder	0.42	0.42	0.42	n/a	n/a	n/a	n/a	n/a	n/a
SNE/MA Winter Flounder	0.71	0.71	0.71	n/a	n/a	n/a	n/a	n/a	n/a

5. Default Catch Limits for the 2019 Fishing Year

Framework 53 established a mechanism for setting default catch limits in the event a future management action is delayed. If final catch limits have not been implemented by the start of a fishing year on May 1, then default catch limits are set at 35 percent of the previous year's catch limit, effective until July 31 of that fishing year. If this value exceeds the Council's recommendation for the upcoming fishing year, the default catch limits will be reduced to an amount equal to the Council's recommendation for the upcoming fishing year. Because groundfish vessels are not able to fish if final catch limits have not been implemented, this measure was established to prevent disruption to the groundfish fishery. Additional description of the default catch limit mechanism is provided in the preamble to the Framework 53 final rule (80 FR 25110; May 1, 2015). The default catch limits for 2019 are summarized in Table 12.

This rule announces default catch limits for the 2019 fishing year that will become effective May 1, 2019, until July 31, 2019, unless otherwise replaced by final specifications. The preliminary sector and common pool sub-ACLs in Table 12 are based on existing 2015 sector rosters, and will be adjusted based on rosters from the 2018 fishing year. In addition, prior to the start of the 2019 fishing year, we will evaluate whether any of the default catch limits announced in this rule exceed the Council's recommendations for 2019. If necessary, we will announce adjustments prior to May 1, 2019.

TABLE 12—DEFAULT SPECIFICATIONS FOR THE 2019 FISHING YEAR

[mt, live weight]

Stock	U.S. ABC	Total ACL	Groundfish sub-ACL	Preliminary sector sub-ACL	Preliminary common pool sub-ACL	Midwater trawl fishery
GB Cod	583	437	465	455	10	.....
GOM Cod	233	175	204	127	4	.....
GB Haddock	125,327	27,264	5,007	4,963	44	51
GOM Haddock	2,176	1,685	1,552	1,107	14	16
SNE/MA Yellowtail Flounder	.....	93	66	52	14	.....
CC/GOM Yellowtail Flounder	315	149	119	113	5	.....
American Plaice	644	491	448	439	9	.....
Witch Flounder	334	161	129	126	3	.....
GB Winter Flounder	511	264	233	231	2	.....
GOM Winter Flounder	378	284	224	212	12	.....
SNE/MA Winter Flounder	555	273	205	180	25	.....
Redfish	5,341	4,025	3,709	3,688	21	.....
White Hake	1,657	1,268	1,168	1,160	8	.....
Pollock	12,161	7,459	6,236	6,196	39	.....
N. Windowpane Flounder	85	64	64	na	64	.....
S. Windowpane Flounder	292	218	218	na	218	.....
Ocean Pout	77	58	58	na	58	.....
Atlantic Halibut	74	55	55	na	55	.....
Atlantic Wolffish	39	29	29	na	29	.....

6. Groundfish At-Sea Monitoring Program Adjustments

In this action, the Council proposes adjustments to the groundfish sector at-sea monitoring (ASM) program to make it more cost effective, while still ensuring the likelihood that discards for all groundfish stocks are monitored at a 30-percent coefficient of variation (CV). Due to changes in the 2015 revision to the Standardized Bycatch Reporting Methodology (SBRM) Amendment (80 FR 37182; June 30, 2015) that limit agency discretion in how Congressional funding is used to provide observer coverage, we are no longer able to cover industry's portion of ASM costs. As a result, in early 2015, we announced that sectors would be responsible for covering ASM costs before the end of the 2015 calendar year. We had some funding in existing contracts to cover ASM costs for a portion of the 2015 fishing year, which delayed the operations of the industry-funded ASM program until March 2016. The Council was concerned that the cost burden of the ASM program to the fishing industry would reduce, and possibly eliminate, sector profitability for the remainder of the 2015 fishing year and in future fishing years, especially in light of recent reductions in catch limits for many key groundfish stocks. While the Council has expressed interest in exploring extensive changes to the ASM program in a future action (*i.e.,* adjusting the 30-percent CV requirement), this action only includes minor modifications to the current ASM program. The following section describes the existing industry-funded ASM program, the current methods for deriving annual ASM coverage levels, and the Council's proposed adjustments to the ASM program.

Description of Existing Industry-Funded ASM Program

Amendment 16 to the Northeast Multispecies FMP (75 FR 18261; April 9, 2010) established industry-funded at-sea monitoring requirements within the sector management system to facilitate accurate monitoring of sector catch to ensure that sector allocations would not be exceeded. Amendment 16 stated that the level of ASM coverage should be less than 100 percent of sector trips, but meet the 30-percent CV standard specified in the SBRM Amendment. While Amendment 16 established a performance standard for coverage levels, it did not provide guidance on what level the CV standard should be applied—discard estimates at the stock level for all sectors, or for each combination of sector and stock. Framework 48 to the FMP (May 3, 2013; 78 FR 26118) clarified that the CV standard was intended to apply to discard estimates at the overall stock level for all sectors combined.

Amendment 16 did not detail explicit goals for sector monitoring beyond accurate catch estimation, so the Council further articulated the goals and objectives of the sector monitoring program in Framework 48 in order to assist NMFS and the sectors in designing and evaluating proposals to satisfy monitoring requirements in sector operations plans. The ASM program goals and objectives established in Framework 48 include that groundfish sector monitoring programs improve documentation of catch, determine total catch and effort of regulated species, and achieve a coverage level sufficient to minimize effects of potential monitoring bias to the extent possible, while enhancing fleet viability. Sector monitoring programs should also reduce the cost of monitoring, streamline data management and eliminate redundancy, explore options for cost-sharing, all while recognizing the opportunity costs of insufficient monitoring. Other goals and objectives include incentivizing reducing discards, providing additional data streams for stock assessments, reducing management and/or biological uncertainty, and enhancing the safety of the monitoring program. The complete list of goals and objectives for groundfish monitoring programs is specified in the NE multispecies regulations at § 648.11(l) and in Framework 48.

For the 2010 and 2011 fishing years, there was no requirement for an industry-funded ASM program, and we were able to fund an ASM program with a target ASM coverage level of 30 percent of all trips. In addition, we provided 8-percent observer coverage through the Northeast Fishery Observer Program (NEFOP), which helps to support SBRM and stock assessments. This resulted in an overall target coverage level of 38 percent, between ASM and NEFOP, for the 2010 and 2011 fishing years. We were able to achieve a 38-percent ASM coverage level for the 2010 and 2011 fishing years because

Congressional funding was appropriated to support new catch share programs, which included the implementation of the sector program. Beginning in the 2012 fishing year, we have conducted an annual analysis to predict the total coverage that would likely reach a 30-percent CV for all stocks, and would reliably estimate overall catch by sector vessels. Industry has been required to pay for their costs of ASM coverage since the 2012 fishing year, while we continued to fund NEFOP coverage. However, we were able to fully fund the industry's portion of ASM costs and NEFOP coverage during the 2012 to 2014 fishing years. Table 13 shows annual target coverage levels for the 2010 to 2015 fishing years.

TABLE 13—HISTORIC TARGET COVERAGE LEVEL FOR AT-SEA MONITORING

Fishing year	Total coverage level (%)	ASM coverage level (%)	NEFOP coverage level (%)	Funding source
2010	38	30	8	NMFS.
2011	38	30	8	NMFS.
2012	25	17	8	NMFS.
2013	22	14	8	NMFS.
2014	26	18	8	NMFS.
2015	24	20	4	NMFS and Sectors.

Historic Determination of ASM Coverage Level

As described in further detail below, the target coverage level sufficient to reach a 30-percent CV for all stocks in the fishery has been set using the most recent full fishing year of data, based on the most sensitive stock, for at least 80 percent of the discarded pounds of all groundfish stocks.

First, target coverage levels have been determined based on discard information from the most recent single full fishing year. For example, discard information was available only from the full 2013 fishing year to determine the target coverage level for the 2015 fishing year. In the initial years of the ASM program, multiple years of data were not available, and the most recent full fishing year was determined to be the best available information to predict target coverage levels.

Second, because it is necessary to estimate discards with a 30-percent CV for each of the 20 groundfish stocks, we conservatively used the individual stock that needed the highest coverage level to reach a 30-percent CV in the most recent full fishing year to predict the annual target coverage level for the upcoming fishing year. For example, in 2013, of the 20 groundfish stocks, SNE/MA yellowtail flounder needed the highest coverage level to reach a 30-percent CV. Thus, the coverage level needed to reach a 30-percent CV for SNE/MA yellowtail flounder in 2013 was used to predict the ASM coverage level for the 2015 fishing year. Since the start of the ASM program in 2010, this approach has resulted in realized annual ASM coverage levels that far exceeded the 30-percent CV requirement for a vast majority of the 20 groundfish stocks.

Finally, in the first year that the sector program was implemented, we were able to fund ASM coverage at a level that reached this precision standard for 80 percent of the discarded pounds. In each subsequent year, because Congress appropriated funds to pay for industry's ASM costs, we sought to maintain the same statistical quality achieved in the 2010 fishing year by ensuring that at least 80 percent of the discarded pounds of all groundfish stocks were estimated at a 30-percent CV or better. In some years, applying this standard has resulted in higher coverage levels than if the standard were not applied. For example, the application of this standard increased the required ASM coverage levels from 22 percent to 26 percent for the 2014 fishing year, and from 21 percent to 24 percent in the 2015 fishing year.

Proposed ASM Program Adjustments

Through this action, the Council proposes to modify the method used to set the target coverage level for the industry-funded ASM program based on 5 years of experience with ASM coverage operations for groundfish sectors and evaluation of the accumulated discard data. The Council proposed these adjustments to make the program more cost effective and smooth the fluctuations in the annual coverage level to provide additional stability for the fishing industry, while still providing coverage levels sufficient to meet the 30-percent CV requirement. The changes proposed in this action would remove ASM coverage for a certain subset of sector trips, use more years of discard information to predict ASM coverage levels, and base the target coverage level on the predictions for stocks that would be at a higher risk for an error in the discard estimate. We are seeking comment on our preliminarily determination that the adjustments the Council proposed to the ASM program are consistent with the Northeast Multispecies FMP and Amendment 16, the Magnuson-Stevens Act and its National Standards, and other applicable law.

None of the proposed adjustments remove our obligation under Amendment 16 and Framework 48 to ensure sufficient ASM coverage to achieve a 30-percent CV for all stocks. The proposed changes would result in a target coverage level of 14 percent for the 2016 fishing year, including SBRM coverage paid in full by NEFOP. Assuming NEFOP covers 4 percent of trips as it has in recent years, this would result in sectors paying for ASM on approximately 10 percent of their vessels' trips in 2016. Though the proposed changes result in a reduced target ASM coverage level for the 2016 fishing year compared to previous years, there is no guarantee that the changes would result in reduced target coverage levels in future fishing years (*i.e.,* using the same methods proposed here could result in higher coverage in 2017 or 2018 than in recent years).

We are only able to determine whether the target coverage level reaches the 30-percent CV for all stocks in hindsight, after a fishing year is over. Thus, while a target ASM coverage level is expected to generate a 30-percent CV on discard estimates, there is no guarantee that the required coverage level will be met or result in a 30-percent CV across all stocks due to changes in fishing effort and observed fishing activity that may happen in a given fishing year. However, during the 2010–2014 fishing years, the target coverage level was in excess of the coverage level that would have been

necessary to reach at least a 30-percent CV for almost every stock.

We expect the 2016 target coverage level to achieve results consistent with prior years based on applying the proposed 2016 target coverage level to the 2010–2014 fishing year data. For example, over the five years from 2010–2014, coverage levels of 14 percent would have achieved a 30-percent CV or better for 95 out of the 100 monitored stocks (*i.e.,* 20 stocks x 5 years). For two of the years, (2010 and 2012), all of the stocks would have achieved a 30-percent CV or better. The lowest 30-percent CV achievement overall would have occurred in fishing year 2014, when 17 of the 20 groundfish stocks would have met the 30-percent CV under the 2016 target coverage level. The three stocks that would not have achieved the 30-percent CV included redfish, GOM winter flounder, and SNE/MA yellowtail flounder. Our application of the 2016 target coverage rate to 2010–2014 data, however, showed that stocks not achieving the 30-percent CV typically did not recur. Moreover, the only stock that would not have achieved a 30-percent CV for more than one of the five years (2 times) was SNE/MA yellowtail flounder. However, the proposed 14 percent coverage rate is projected to achieve the necessary 30-percent CV requirement for SNE/MA yellowtail flounder in 2016. Were a higher coverage level necessary to achieve the 30-percent CV requirement for this stock, coverage would be set equal to that level.

Further, the risk of not achieving the required CV level for these stocks is mitigated by a number of factors. For example, for SNE/MA yellowtail flounder, a more sizeable portion of its ACL has been caught over the last three years (58–70 percent), but less than 10 percent of total catch was made up of discards. Redfish and GOM winter flounder were underutilized over the last three fishing years (less than 50 percent of the ACL caught) and less than 10 percent of their total catch was made up of discards. Thus, even in the unexpected event of not achieving a CV of 30 percent, the risk to these stocks of erring in the discard estimates is very low.

Table 14 describes the combined impact of the proposed adjustments, applied sequentially in Steps 1 through 4. Table 14 also lists the individual stock that would have needed the highest coverage level to reach a 30-percent CV and, in turn, be used to set the target ASM coverage level. The text that follows discusses the potential effects of each alternative on the target ASM coverage level for 2016 if each alternative were adopted in isolation.

TABLE 14—PROPOSED ASM PROGRAM ADJUSTMENTS AND RESULTING 2016 ASM COVERAGE LEVEL

Proposed action	Total 2016 coverage level (NEFOP + ASM) (%)	Driving stock
No Action	41	Redfish.
1. Remove standard that 80% of discarded pounds be monitored at a 30% CV (administrative)	37	Redfish.
2. Remove ASM coverage requirement for extra-large mesh gillnet trips	37	Redfish.
3. Use multiple years of information to determine ASM coverage levels	17	Redfish.
4. Filter the application of the 30% CV standard based on stock status and utilization	14	SNE/MA yellowtail flounder.

Removal of Standard That 80 Percent of Discarded Pounds Be Monitored at a 30-Percent CV

As discussed above, from 2012 to 2015, we set coverage levels to ensure that at least 80 percent of the discarded pounds of all groundfish stocks were estimated at a 30-percent CV or better to maintain the same statistical quality achieved in the 2010 fishing year. We applied this standard during years when Congress appropriated funds to pay for industry costs for the ASM program (2010 and 2011), and in other years when we were able to fund industry's costs for ASM (2012–2014, and part of 2015). In some years, applying this standard resulted in higher coverage levels than if the standard were not applied. However, this additional criterion was not necessary to satisfy the CV requirement of the ASM program or to accurately monitor sector catches, and was not required by the FMP. This action proposes to clarify the Council's intent that target ASM coverage levels for sectors should be set using only realized stock-level CVs, and should not be set using the additional administrative standard of monitoring 80 percent of discard pounds at a 30-percent CV or better. If implemented alone, removing this administrative standard would result in a target 2016 ASM coverage level of 37 percent.

Removing ASM Coverage Requirement for Extra-Large Mesh Gillnet Trips

Currently, sector monitoring requirements apply to any trip where groundfish catch counts against a sector's annual catch entitlement (ACE). This Council action proposes to remove the ASM coverage requirement for sector trips using gillnets with extra-large mesh (10 inches (25.4 cm) or greater) in the SNE/MA and Inshore GB Broad Stock Areas. A majority of catch on these trips is of non-groundfish stocks such as skates, monkfish, and dogfish, with minimal or no groundfish catch. As a result, applying the same level of coverage on these trips as targeted groundfish trips does not contribute to improving the overall precision and accuracy of sector discard estimates, and would not be a sufficient use of the limited resources for the ASM program. These trips would still be subject to SBRM coverage through NEFOP, and monitoring coverage levels would be consistent with non-sector trips that target non-groundfish species. If implemented alone, this alternative would result in a target ASM coverage level of 37 percent for the 2016 fishing year.

This measure is intended to reduce ASM costs to sectors with members that take this type of extra-large mesh gillnet trip. The benefit of reducing ASM coverage for these trips is that resources would be diverted to monitor trips that catch more groundfish, which could improve discard estimates for directed groundfish trips. All other sector trips would still be required to meet the CV standard at a minimum. Changes in stock size or fishing behavior on these trips could change the amount of groundfish bycatch in future fishing years. However, data from 2012 to 2014 shows that groundfish catch has represented less than 5 percent of total catch on a majority of trips, and large changes are not expected. We will continue to evaluate this measure in the future to make sure bycatch levels remain low.

Because this subset of trips would have a different coverage level than other sector trips in the SNE/MA and Inshore GB Broad Stock Areas, we would create separate discard strata for each stock caught on extra-large gillnet trips in order to ensure the different coverage levels do not bias discard estimates. At this time, no adjustments to the current notification procedures appear necessary to implement this measure. Sector vessels already declare gear type and Broad Stock Area to be fished in the Pre-Trip Notification System, which would allow us to easily identify trips that are exempt from ASM coverage.

To minimize the possibility that this measure would be used to avoid ASM coverage, only vessels declared into the SNE/MA and/or Inshore GB Broad Stock Areas using extra-large mesh gillnets would be exempt from the ASM coverage requirement. Vessels using extra-large mesh gillnet declaring into the GOM or Offshore GB Broad Stock Areas would not be exempt from the ASM coverage requirement. In addition, a vessel is already prohibited from changing its fishing plan for a trip once a waiver from coverage has been issued.

Framework 48 implemented a similar measure exempting the subset of sector trips declared into the SNE/MA Broad Stock Area on a monkfish DAS and using extra-large mesh gillnets from the standard ASM coverage level. The Framework 48 measure gave us the authority to specify some lower coverage level for these trips on an annual basis when determining coverage rates for all other sector trips. Since this measure was implemented at the start of the 2013 fishing year, the ASM coverage level for these trips has been set to zero, and these trips have only been subject to NEFOP coverage. The measure proposed in this action would supersede the Framework 48 measure because it would entirely remove the ASM coverage requirement from these trips.

Using Multiple Years of Data to Determine ASM Total Coverage Levels

Currently, data from the most recent fishing year are used to predict the target ASM coverage level for the upcoming fishing year. For example, data from the 2013 groundfish fishing year were used to set the target ASM coverage level for the 2015 fishing year. When a single year of data is used to determine the target coverage level, the entire coverage level is driven by the variability in discards in a single stock. This variability is primarily due to inter-annual changes in management measures and fishing activity. Though the target ASM coverage level has ranged from 22 to 26 percent for the last four fishing years, there is the potential that variability could result in large fluctuations of target ASM coverage levels in the future, and result in target coverage levels that are well above the level necessary to meet the 30-percent CV for most stocks. For example, available analyses indicates that, using the status quo methodology, the ASM coverage level would be 41 percent in 2016 compared to the current 2015 rate of 24 percent. Based on a 2016 target coverage level of 41 percent, the coverage level that would have been necessary to meet a 30-percent CV in 2014 would be exceeded by 15–39 percent for 19 of the 20 stocks.

This Council action proposes using information from the most recent three full fishing years to predict target ASM coverage levels for the upcoming fishing year. For example, data from the 2012 to 2014 fishing years would be used to predict the target ASM coverage level for the 2016 fishing year. Now that five full years of discard data are available, using multiple years of data is expected to smooth inter-annual fluctuations in the level of coverage needed to meet a 30-percent CV that might result from changes to fishing activity and management measures. This measure is intended to make the annual determination of the target ASM coverage level more stable. For example, the percent coverage necessary to reach a 30-percent CV for redfish varied widely for the last 3 years (5 percent in 2012; 10 percent in 2013, and 37 percent in 2014). With this measure, the Council intended to make the annual determination of the target ASM coverage level more stable. Additional stability in predicting the annual target ASM coverage level is beneficial in the context of the industry-funded ASM program. Wide inter-annual fluctuations in the necessary coverage level would make it difficult for groundfish vessels to plan for the costs of monitoring, and for ASM service providers to adjust staffing to meet variable demands for monitoring coverage. The ability for ASM service providers to successfully meet staffing needs, including maintaining the appropriate staff numbers and retaining quality monitors, increases the likelihood of achieving the target coverage level each year. If implemented alone, using multiple years of data would result in a target 2016 ASM coverage level of 17 percent.

Filtering the Application of the 30-Percent CV Standard

This Council action proposes to filter the application of the 30-percent CV standard consistent with existing goals for the ASM program. Under this alternative, stocks that meet all of the following criteria would not be used as the predictor for the annual target ASM coverage level for all stocks: (1) Not overfished; (2) Overfishing is not occurring; (3) Not fully utilized (less than 75 percent of sector sub-ACL harvested); and (4) Discards are less than 10 percent of total catch.

This proposed measure does not eliminate the 30-percent CV standard. Rather, this measure is intended to reflect the Council's policy that target ASM coverage level should be based on stocks that are overfished, are subject to overfishing, or are more fully utilized—stocks for which it is critical to attempt to fully account for past variability in discard estimates. Because stocks that meet all four of the filtering criteria are healthy and not fully utilized, there is a lower risk in erring in the discard estimate. Additionally, using these stocks to predict the target coverage could lead to coverage levels that are not necessary to accurately monitor sector catch.

For the 2016 fishing year, preliminary analysis shows that, under the status quo methodology for determining the ASM target coverage level, redfish would drive the target coverage level at 37 percent. However, redfish is a healthy stock, and current biomass is well above the biomass threshold. Redfish also meets all of the filtering criteria—the stock is currently not overfished, overfishing is not occurring, only 45 percent of the sector sub-ACL was harvested in 2014, and only 3 percent of total catch was made up of discards. Also, because of the high year-to-year variability in the coverage necessary to achieve the 30-percent CV standard for redfish, we expect the target coverage level of 14 percent to meet the objective.

If implemented alone, filtering the application of the 30-percent CV standard would eliminate redfish as a driver for the target ASM 2016 coverage level, and GOM winter flounder would drive coverage at 26 percent. If implemented in combination with the other alternatives, SNE/MA yellowtail flounder would drive the coverage level at 14 percent.

Clarification of Groundfish Monitoring Goals and Objectives

As described earlier in this section, Framework Adjustment 48 revised and clarified the goals and objectives of the sector monitoring program to include, among other things, improving the documentation of catch, reducing the cost of monitoring, and providing

additional data streams for stock assessments. However, Framework 48 did not prioritize these goals and objectives. This Council action clarifies that the primary goal of the sector ASM program is to verify area fished, catch and discards by species, and by gear type, in a manner that would reduce the cost of monitoring. This proposed adjustment to the program goals would not affect the target ASM coverage levels.

7. Other Framework 55 Measures

The Council also proposed a number of additional minor adjustments to the FMP as part of this action.

Formation of Sustainable Harvest Sector II

The Council proposes to approve the formation of a new sector, Sustainable Harvest Sector II. We must still review the sector operations plan submitted by Sustainable Harvest Sector II to ensure that it contains the required provisions for operation, and that a sufficient analysis is completed under the National Environmental Policy Act (NEPA). We propose to approve Sustainable Harvest Sector II, but intend to make our final determination concerning what sectors are approved and allocated ACE for operations for the 2016 fishing year as part of this rulemaking.

Modification of the Sector Approval Process

This Council action proposes to modify to the sector approval process so that new sectors would not have to be approved through an FMP amendment or framework adjustment. Under the current process, new sectors must submit operations plans to the Council no less than 1 year prior to the date that it plans to begin operations (*i.e*, by May 1, 2016, if the sector intends to operate on May 1, 2017). The Council must decide whether to approve the formation of a new sector through an amendment or framework adjustment. NMFS then reviews the operations plan submitted by the new sector to ensure that it contains the required provisions for operation and sufficient NEPA analysis before making final determinations about the formation of the new sector consistent with the Administrative Procedure Act (APA).

Under the proposed process, new sectors would submit operations plans directly to NMFS no later than September 1 of the fishing year prior to the fishing year it intends to begin operations. For example, if a new sector wished to operate starting on May 1, 2017, it would need to submit its operations plan to NMFS no later than September 1, 2016. NMFS would notify the Council in writing of its intent to consider approving new sectors. NMFS would present the submitted sector operations plans and any supporting analysis for the new sector at a Groundfish Committee meeting and a Council meeting. After its review, the Council would submit comments to NMFS in writing and indicate whether it endorses the formation of the new sector. NMFS would then make a final determination about new sector consistent with the APA. NMFS would not initiate a rulemaking to make final determinations on the formation of the new sector without the Council's endorsement. This modified process would shorten the timeline for, and increase the flexibility of, the sector approval process, while maintaining opportunities for Council approval and public involvement in the approval process. No other aspects of the sector formation process, including the content of sector operations plan submissions, would change as a result of this proposed measure.

Modification to the Definition of the Haddock Separator Trawl

This Council action proposes to modify the definition of the haddock separator trawl to improve the enforceability of this selective trawl gear. In many haddock separator trawls, the separator panel is made with the same mesh color as the net, which makes it difficult for enforcement to identify that this gear is properly configured during vessel inspections. This measure would require the separator panel to be a contrasting color to the portions of the net that it separates. Requiring that the separator panel be a contrasting color to the rest of the net would make the separator panel highly visible, which would improve identification of the panel during boarding, and potentially allow for faster inspections and more effective enforcement. This proposed modification does not affect rope or Ruhle trawls. If we approve this measure, we intend to delay the effective date of the requirement by 6 months to allow affected fishermen time to replace their separator panels with contrasting netting.

Removal of GOM Cod Recreational Possession Limit

This Council action proposes to remove the prohibition on recreational possession of GOM cod that was established as part of the protection measures implemented for this stock in Framework Adjustment 53. We currently set recreational management measures in consultation with the Council, and have the authority to modify bag limits, size limits, and seasons. The Framework 53 prohibition on the recreational possession of GOM cod was implemented as a permanent provision in the FMP. In removing the permanent prohibition on recreational possession of GOM cod, this proposed measure returns the authority to set recreational management measures for GOM cod to us. We will implement additional recreational measures to help ensure the recreational fishery does not exceed the GOM cod allocation in a separate rulemaking.

Distribution of Eastern/Western GB Cod Sector Allocations

Eastern GB cod is a sub-unit of the total GB cod stock, and the total ABC for GB cod includes the shared U.S./Canada quota for eastern GB cod. A portion of a sector's GB cod allocation may only be caught in the Eastern U.S./Canada Area, and the remaining portion of its total GB cod allocation can be caught only in the Western U.S./Canada Area. This restriction was adopted by Amendment 16 in order to cap the amount of GB cod that a sector could catch in the eastern U.S./Canada Area and help prevent the United States from exceeding its eastern GB cod quota. However, limiting the amount of cod that could be caught in the western U.S./Canada Area could unnecessarily reduce flexibility, and potentially limit fishing in the area, even if a sector has not caught its entire GB cod allocation. Ultimately, this could prevent the fishery from achieving optimum yield for the GB cod stock.

To address this concern, the Council proposes in this to allow sectors to ''convert'' their eastern GB cod allocation into western GB cod allocation. This measure would follow a process similar to the one used for processing sector trades, and is similar to a measure already approved for GB haddock in Framework Adjustment 51 (77 FR 22421; April 22, 2014). Sectors could convert eastern GB cod allocation into western GB cod allocation at any time during the fishing year, and up to 2 weeks into the following fishing year to cover any overage during the previous fishing year. A sector's proposed allocation conversion would be referred to, and approved by, NMFS based on general issues, such as whether the sector is complying with reporting or other administrative requirements, including weekly sector reports, or member vessel compliance with Vessel Trip Reporting requirements. Based on these factors, we

would notify the sector if the conversion is approved or disapproved. As with GB haddock transfers, we propose to use member vessel compliance with Vessel Trip Reporting requirements as the basis for approving, or disapproving, a reallocation of Eastern GB quota to the Western U.S./Canada Area. This is identical to the process used for reviewing, and approving, quota transfer requests between sectors.

The responsibility for ensuring that sufficient allocation is available to cover the conversion is the responsibility of the sector. This measure would also extend to state-operated permit banks. Any conversion of eastern GB cod allocation into western GB cod allocation may be made only within a sector, or permit bank, and not between sectors or permit banks. In addition, once a portion of eastern GB cod allocation has been converted to western GB cod allocation, that portion of allocation remains western GB cod for the remainder of the fishing year. Western GB cod allocation may not be converted to eastern GB cod allocation. This proposed measure does not change the requirement that sector vessels may only catch their eastern GB cod allocation in the Eastern U.S./Canada Area, and may only catch the remainder of their GB cod allocation in the Western U.S./Canada Area.

This measure would provide additional flexibility for sectors to harvest their GB cod allocations. The total catch limit for GB cod includes the U.S. quota for eastern GB cod, so this proposed measure would not jeopardize the total ACL for GB cod, or the U.S. quota for the eastern portion of the stock. A sector would also still be required to stop fishing in the Eastern U.S./Canada Area once its entire eastern GB cod allocation was caught, or in the Western U.S./Canada Area once its western GB cod allocation was caught, or at least until it leased in additional quota. This ensures sufficient accountability for sector catch that will help prevent overages of any GB cod catch limit.

8. Sector Measures for the 2016 Fishing Year

This action also proposes measures necessary to implement sector operations plan, including sector regulatory exemptions and annual catch entitlements, for 19 sectors for the 2016 fishing year. In past years, sector operations measures have been covered in a separate, concurrent rulemaking, but are included in this rulemaking for efficiency.

Sector Operations Plans and Contracts

A total of 19 sectors would operate in the 2016 fishing year, including:

- Seventeen sectors that had operations plans that had been previously approved for the 2016 fishing year (see the Final Rule for 2015 and 2016 Sector Operations Plans and 2015 Contracts and Allocation of Northeast Multispecies Annual Catch Entitlements; 80 FR 25143; May 1, 2015);
- Sustainable Harvest Sector II, discussed in section ''7. Other Framework 55 Measures,'' which is proposed for formation and approval as part of Framework 55; and
- Northeast Fishery Sector 12, which has not operated since 2013, but submitted an operations plan for approval for the 2016 fishing year.

We have made a preliminary determination that the two new proposed sector operations plans and contracts for Sustainable Harvest Sector II and Northeast Fisheries Sector 12 are consistent with the FMP's goals and objectives and meet the applicable sector requirements. We request comments on the proposed operations plans and the accompanying environmental assessment (EA) for these two sectors. Copies of the operations plans and contracts, and the EA, are available at: *http://www.regulations.gov* and from NMFS (see **ADDRESSES**).

Sector Allocations

Regional Administrator approval is required for sectors to receive ACEs for specific groundfish stocks. The ACE allocations are a portion of a stock's ACL available to the sector based on the collective fishing history of the sector's members. Sectors are allocated ACE for groundfish stocks for which its members have landings history, with the exception of Atlantic halibut, ocean pout, windowpane flounder, and Atlantic wolffish. These stocks are not allocated to sectors.

Each year, we use sector enrollment information from the previous fishing year to estimate ACE allocations for the upcoming fishing year. Due to the shift to industry-funded ASM, sector enrollment could decrease for the 2016 fishing year if current sector members decide to fish in the common pool to avoid the financial burden of the ASM requirement. Despite some uncertainty in 2016 enrollment levels, we expect that 2015 enrollment still provides the best proxy for fishing year 2016 sector membership, and used 2015 enrollment to calculate the fishing year 2016 projected allocations in this proposed rule.

All permits enrolled in a sector, and the vessels associated with those permits, have until April 30, 2016, to withdraw from a sector and fish in the common pool for fishing year 2016. In addition to the enrollment delay, all permits that change ownership after December 1, 2015, retain the ability to join a sector through April 30, 2016. We will publish final sector ACEs and common pool sub-ACLs, based upon final rosters, as soon as possible after the start of the 2016 fishing year, and again after the start of the 2017 and 2018 fishing years.

The sector allocations proposed in this rule are based on the fishing year 2016 specifications described above under ''3. Catch Limits for the 2016–2018 Fishing Years.'' We calculate the sector's allocation for each stock by summing its members' potential sector contributions (PSC) for a stock, as shown in Table 15. The information presented in Table 15 is the total percentage of each commercial sub-ACL each sector would receive for the 2016 fishing year, based on their 2015 fishing year rosters. Tables 16 and 17 show the allocations each sector would receive for 2016 fishing year, based on their 2015 fishing year rosters. At the start of the fishing year, after sector enrollment is finalized, we provide the final allocations, to the nearest pound, to the individual sectors, and we use those final allocations to monitor sector catch. While the common pool does not receive a specific allocation, the common pool sub-ACLs have been included in each of these tables for comparison.

We do not assign an individual permit separate PSCs for the Eastern GB cod or Eastern GB haddock; instead, we assign a permit a PSC for the GB cod stock and GB haddock stock. Each sector's GB cod and GB haddock allocations are then divided into an Eastern ACE and a Western ACE, based on each sector's percentage of the GB cod and GB haddock ACLs. For example, if a sector is allocated 4 percent of the GB cod ACL and 6 percent of the GB haddock ACL, the sector is allocated 4 percent of the commercial Eastern U.S./Canada Area GB cod TAC and 6 percent of the commercial Eastern U.S./Canada Area GB haddock TAC as its Eastern GB cod and haddock ACEs. These amounts are then subtracted from the sector's overall GB cod and haddock allocations to determine its Western GB cod and haddock ACEs. Framework 51 implemented a mechanism that allows sectors to ''convert'' their Eastern GB haddock allocation into Western GB haddock allocation (79 FR 22421; April 22, 2014) and fish that converted ACE

in Western GB. This rule proposes a similar measure for GB cod under ''6. Other Framework 55 Measures.''

At the start of the 2016 fishing year, we will withhold 20 percent of each sector's 2016 fishing year allocation until we finalize fishing year 2015 catch information. If the default catch limits for the 2016 fishing year are implemented, groundfish sectors would not be subject to the 20-percent holdback. We will allow sectors to transfer fishing year 2015 ACE for 2 weeks of the fishing year following the completion of year-end catch accounting to reduce or eliminate any 2015 fishing year overages. If necessary, we will reduce any sector's 2016 fishing year allocation to account for a remaining overage in 2015 fishing year.

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Table 15. Cumulative PSC (percentage) each sector would receive by stock for fishing year 2016.*

Sector Name	GB Cod†	GOM Cod	GB Haddock†	GOM Haddock	GB YT Flounder	SNE/MA YT Flounder‡	CC/GOM YT Flounder‡	American Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder‡	Redfish	White Hake	Pollock
GB Cod Fixed Gear Sector (Fixed Gear Sector)	27.694499	2.60411697	5.755360518	1.873582559	0.014065303	0.36965025	3.036066503	0.978592	2.143369699	0.028412693	13.46364714	2.334028199	2.741955621	5.700232461	7.406486911
Maine Coast Community Sector (MCCS)	0.209544172	4.600244934	0.038770112	2.558599027	0.003515134	0.659621953	1.050175506	7.551057401	5.059623761	0.006783136	1.963756861	0.192030108	2.501806185	4.394764742	3.800918739
Maine Permit Bank	0.13356367	1.151604693	0.044328832	1.122501791	0.013776402	0.031768648	0.317513209	1.16380585	0.726777657	0.000217133	0.425311313	0.017860187	0.82176406	1.65253695	1.693531383
Northeast Coastal Communities Sector (NCCS)	0.180040577	0.901939603	0.137722621	0.39231453	0.835596046	0.719151243	0.621303564	0.307144341	0.295070995	0.053814572	0.925011235	0.285781447	0.455537453	0.858478535	0.515403308
NEFS 1	0	0.030667067	0	0.002486595	0	0	0.037552983	0.008557969	0.012747468	9.54953E-07	0.052051436	3.23199E-06	0	0	0
NEFS 2	5.687894047	18.30360845	10.68364767	16.45827575	1.90723756	1.398266728	18.8369872	7.785788823	12.5908369	3.217799926	18.1690099	3.181206138	14.73385933	6.047332124	11.88293817
NEFS 3	1.124229243	13.68898364	0.142548175	8.942020244	0.045912766	0.408527091	8.49865556	4.053641044	2.849440834	0.025822743	9.181332294	0.752743649	1.289751767	4.511522707	6.070162061
NEFS 4	4.14318807	9.597405796	5.335097636	8.270809838	2.1614662	2.347792266	5.462377432	9.286894705	8.49383212	0.691712475	6.242139483	1.280143849	6.642126915	8.057084511	6.161406659
NEFS 5	0.727506303	0.106490691	0.857374951	0.131472624	1.260279277	20.76328588	0.207340751	0.384981588	0.553406822	0.434302079	0.017630126	12.34662638	0.02090793	0.098752363	0.093209471
NEFS 6	2.868798943	2.958643672	2.923662617	3.855973179	2.702518084	5.263853615	3.734652453	3.891212841	5.204529066	1.504558353	4.554173598	1.937408254	5.310537267	3.914446397	3.305383724
NEFS 7	4.594070833	0.816030811	4.50682333	0.693632144	10.44501276	4.323152078	4.359600944	3.685939942	3.664668201	10.26792054	3.00699365	4.859064252	0.608476927	0.877646784	0.758293521
NEFS 8	5.890348994	0.178115436	5.863076643	0.076677132	9.741947074	5.425139581	4.317834885	1.543348675	2.116386826	15.05809284	1.042673413	9.761157879	0.53028413	0.459131138	0.571670347
NEFS 9	14.22184825	1.651873823	11.59666618	4.711835489	26.80583387	7.721214256	10.42517636	8.263119688	8.2664236	39.53809711	2.44965554	18.32925453	5.690931683	4.092160698	3.891240261
NEFS 10	0.734971715	5.427462366	0.251529927	2.588775644	0.001558849	0.540958113	13.05160144	1.707236165	2.394944893	0.0107466	18.11014966	0.72635591	0.548637748	0.915571794	1.462752389
NEFS 11	0.407171937	13.64608735	0.038172885	3.216874044	0.001526329	0.019524121	2.580138791	2.096400751	2.073624465	0.003309759	2.248671897	0.021573873	1.995777016	4.841858308	9.494305856
NEFS 13	7.95815638	0.841578343	15.96918452	0.934025674	24.73739076	18.59430082	4.743917868	5.153000148	6.173362974	7.245172042	2.054422461	10.81730202	3.982679998	1.745943429	2.278026077
New Hampshire Permit Bank	0.00082187	1.14188081	3.40501E-05	0.032289496	2.0261E-05	1.78561E-05	0.021778079	0.028471233	0.006158791	3.23751E-06	0.060517624	3.62755E-05	0.019399565	0.031273377	0.111251823
Sustainable Harvest Sector 1	1.822596096	4.341135142	2.235310723	3.93990206	0.923994992	0.435355048	2.816495859	5.751160183	3.948985	5.714888386	5.0712478	0.823364685	4.267827176	4.871669006	3.956327396
Sustainable Harvest Sector 3	19.4585015	15.39706124	32.73269154	38.9185545	16.49540297	10.37393213	11.3071658	34.4470914	31.12196251	15.23411037	5.545962681	20.04562217	47.25899124	46.15820984	35.92276189
Sectors Total	**97.8577516**	**97.38693083**	**99.11450303**	**98.72080232**	**98.09705463**	**79.40553167**	**95.42633519**	**98.08744475**	**97.69625258**	**99.03576495**	**94.58435811**	**87.71358305**	**99.42127201**	**99.27861517**	**99.37606998**
Common Pool	2.142248399	2.613069165	0.885496971	1.279197678	1.902945372	20.59446833	4.573664806	1.912555252	2.303747415	0.964235051	5.41564189	12.28641695	0.578727992	0.721384833	0.623930017

* The data in this table are based on fishing year 2015 sector rosters. Sectors proposed for approval in this action (i.e., NEFS 11 and SHS 2) are not reflected here and will be included in the adjustment rule.

† For fishing year 2016, 18.9 percent of the GB cod ACL would be allocated for the Eastern U.S./Canada Area, while 28.46 percent of the GB haddock ACL would be allocated for the Eastern U.S./Canada Area.

‡ SNE/MA Yellowtail Flounder refers to the SNE/Mid-Atlantic stock. CC/COM Yellowtail Flounder refers to the Cape Cod/GOM stock.

Table 16. Proposed ACE (in 1,000 lbs), by stock, for each sector for fishing year 2016.*#^†

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB YT Flounder	SNE/MA YT Flounder	CC/GOM YT Flounder	American Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
Fixed Gear Sector	84	287	16	1,925	4,631	100	0	2	23	26	17	0	190	30	576	435	2,909
MCCS	1	2	28	13	31	136	0	3	8	197	41	0	28	2	525	335	1,493
Maine Permit Bank	0	1	7	15	36	60	0	0	2	30	6	0	6	0	173	126	665
NCCS	1	2	6	46	111	21	4	3	5	8	2	1	13	4	96	65	202
NEFS 1	-	-	0	-	-	0	-	-	0	0	0	0	1	0	-	-	-
NEFS 2	17	59	113	3,573	8,596	877	9	6	142	203	103	42	256	41	3,094	461	4,668
NEFS 3	3	12	85	48	115	476	0	2	64	106	23	0	129	10	271	344	2,384
NEFS 4	13	43	59	1,784	4,293	441	10	10	41	242	69	9	88	17	1,395	614	2,420
NEFS 5	2	8	1	287	690	7	6	87	2	10	5	6	0	159	4	8	37
NEFS 6	9	30	18	978	2,352	205	13	22	28	101	42	20	64	25	1,115	299	1,298
NEFS 7	14	48	5	1,508	3,628	37	49	18	33	96	30	134	42	63	128	67	298
NEFS 8	18	61	1	1,961	4,718	4	45	23	32	40	17	196	15	126	111	35	225
NEFS 9	43	147	10	3,878	9,331	251	125	32	78	216	67	514	35	236	1,195	312	1,528
NEFS 10	2	8	34	84	202	138	0	2	98	45	20	0	255	9	115	70	575
NEFS 11	1	4	84	13	31	171	0	0	19	55	17	0	32	0	419	369	3,729
NEFS 13	24	82	5	5,341	12,849	50	115	77	36	134	50	94	29	140	836	133	895
New Hampshire Permit Bank	0	0	7	0	0	2	0	0	0	1	0	0	1	0	4	6	44
Sustainable Harvest Sector 1	6	19	27	748	1,799	210	4	2	21	150	32	74	71	11	896	372	1,554
Sustainable Harvest Sector 3	59	202	95	10,947	26,337	2,073	77	43	85	898	254	198	78	259	9,925	3,520	14,110
Sectors Total	**298**	**1,014**	**601**	**33,148**	**79,750**	5,258	456	331	717	2,558	797	1,288	1,332	1,131	20,880	7,571	39,035
Common Pool	7	22	16	296	712	68	9	86	34	50	19	13	76	158	122	55	245

*The data in this table are based on fishing year 2015 sector rosters. Sectors proposed for approval in this action (i.e., NEFS 11 and SHS 2) are not reflected here and will be included in the adjustment rule.
#Numbers are rounded to the nearest thousand lbs. In some cases, this table shows an allocation of 0, but that sector may be allocated a small amount of that stock in tens or hundreds pounds.
^ The data in the table represent the total allocations to each sector. NMFS will withhold 20 percent of a sector's total ACE at the start of the fishing year.
† We have used preliminary ACLs to estimate each sector's ACE.

Table 17. Proposed ACE (in metric tons), by stock, for each sector for fishing year 2016.*#^†

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB YT Flounder	SNE/MA YT Flounder	CC/GOM YT Flounder	American Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
Fixed Gear Sector	38	130	7	873	2,101	45	0	1	10	12	8	0	86	14	261	197	1,320
MCCS	0	1	13	6	14	62	0	1	4	89	19	0	13	1	238	152	677
Maine Permit Bank	0	1	3	7	16	27	0	0	1	14	3	0	3	0	78	57	302
NCCS	0	1	3	21	50	9	2	1	2	4	1	0	6	2	43	30	92
NEFS 1	-	-	0	-	-	0	0	0	0	0	0	0	0	0	0	0	0
NEFS 2	8	27	51	1,621	3,899	398	4	3	64	92	47	19	116	19	1404	209	2,117
NEFS 3	2	5	38	22	52	216	0	1	29	48	11	0	59	4	123	156	1,082
NEFS 4	6	19	27	809	1,947	200	5	4	19	110	31	4	40	7	633	279	1,098
NEFS 5	1	3	0	130	313	3	3	39	1	5	2	3	0	72	2	3	17
NEFS 6	4	13	8	444	1,067	93	6	10	13	46	19	9	29	11	506	135	589
NEFS 7	6	22	2	684	1,646	17	22	8	15	44	14	61	19	28	58	30	135
NEFS 8	8	28	0	889	2,140	2	21	10	15	18	8	89	7	57	51	16	102
NEFS 9	20	67	5	1,759	4,232	114	57	15	36	98	31	233	16	107	542	142	693
NEFS 10	1	3	15	38	92	63	0	1	45	20	9	0	116	4	52	32	261
NEFS 11	1	2	38	6	14	78	0	0	9	25	8	0	14	0	190	167	1692
NEFS 13	11	37	2	2,423	5,828	23	52	35	16	61	23	43	13	63	379	60	406
New Hampshire Permit Bank	0	0	3	0	0	1	0	0	0	0	0	0	0	0	2	3	20
Sustainable Harvest Sector 1	3	9	12	339	816	95	2	1	10	68	15	34	32	5	407	169	705
Sustainable Harvest Sector 3	27	91	43	4,966	11,946	940	35	20	39	408	115	90	35	117	4502	1597	6,400
Sectors Total	135	460	273	15,036	36,174	2,385	207	150	325	1160	361	584	604	513	9471	3434	17706
Common Pool	3	10	7	134	323	31	4	39	16	23	9	6	35	72	55	25	111

*The data in this table are based on fishing year 2015 sector rosters. Sectors proposed for approval in this action (i.e., NEFS 11 and SHS 2) are not reflected here and will be included in the adjustment rule.

#Numbers are rounded to the nearest metric ton, but allocations are made in pounds. In some cases, this table shows a sector allocation of 0 metric tons, but that sector may be allocated a small amount of that stock in pounds.

^ The data in the table represent the total allocations to each sector. NMFS will withhold 20 percent of a sector's total ACE at the start of the fishing year.

† We have used preliminary ACLs to estimate each sector's ACE.

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Sector Carryover From the 2015 to 2016 Fishing Year

Sectors can carry over up to 10 percent of the unused initial allocation for each stock into the next fishing year. However, the maximum available carryover may be reduced if up to 10 percent of the unused sector sub-ACL, plus the total ACL for the upcoming fishing year, exceeds the total ABC. Based on the catch limits proposed in this action, we evaluated whether the total potential catch in the 2016 fishing year would exceed the proposed ABC if sectors carried over the maximum 10 percent of unused allocation from 2015 to 2016 (Table 18). Under this scenario, total potential catch would exceed the 2016 ABC for all stocks except for GOM haddock and GB haddock. As a result, we expect we will need to adjust the maximum amount of unused allocation that a sector can carry forward from 2015 to 2016 (down from 10 percent). It is possible that not all sectors will have 10 percent of unused allocation at the end of the 2015 fishing year. We will make final adjustments to the maximum carryover possible for each sector based on the final 2015 catch for the sectors, each sector's total unused allocation, and proportional to the cumulative PSCs of vessels/permits participating in the sector. We will announce this adjustment as close to May 1, 2016, as possible.

Based on the catch limits proposed in this rule, the *de minimis* carryover amount for the 2016 fishing year would be set at the default one percent of the 2016 overall sector sub-ACL. The overall *de minimis* amount will be applied to each sector based on the cumulative PSCs of the vessel/permits participating in the sector. If the overall ACL for any allocated stock is exceeded for the 2016 fishing year, the allowed carryover harvested by a sector minus its specified *de minimis* amount, will be counted against its allocation to determine whether an overage, subject to an AM, occurred.

TABLE 18—EVALUATION OF MAXIMUM CARRYOVER ALLOWED FROM THE 2015 TO 2016 FISHING YEARS

[mt, live weight]

Stock	2016 U.S. ABC	2016 Total ACL	Potential carryover (10% of 2015 sector sub-ACL)	Total potential catch (2016 total ACL + potential carryover	Difference between total potential catch and ABC
GB Cod	762	730	174	904	142
GOM cod	500	473	81	555	55
GB Haddock	56,068	53,309	1,705	55,015	−1,053
GOM Haddock	3,630	3,430	43	3,474	−156
SNE Yellowtail Flounder	267	256	46	302	35
CC/GOM Yellowtail Flounder	427	409	46	455	28
Plaice	1,297	1,235	136	1,370	73
Witch Flounder	460	441	60	500	40
GB Winter Flounder	668	650	336	985	317
GOM Winter Flounder	810	776	68	845	35
SNE/MA Winter Flounder	780	749	106	855	75
Redfish	10,338	9,837	1,052	10,889	551
White Hake	3,816	3,572	425	3,997	181

Note. Carry over of GB yellowtail flounder is not allowed because this stock is jointly managed with Canada.

Sector Exemptions

Because sectors elect to receive an allocation under a quota-based system, the FMP grants sector vessels several ''universal'' exemptions from the FMP's effort controls. These universal exemptions apply to: Trip limits on allocated stocks; the GB Seasonal Closure Area; NE multispecies days-at-sea (DAS) restrictions; the requirement to use a 6.5-inch (16.5-cm) mesh codend when fishing with selective gear on GB; and portions of the GOM Cod Protection Closures. The FMP prohibits sectors from requesting exemptions from permitting restrictions, gear restrictions designed to minimize habitat impacts, and reporting requirements. In addition to the ''universal'' exemptions approved under Amendment 16 to the Northeast Multispecies FMP, the existing 17 operational sectors and the two that are proposed for approval in this action are granted 19 additional exemptions from the NE multispecies regulations for the 2016 fishing year. These exemptions were previously approved in the sector operations rulemaking for the 2015 and 2016 fishing years. Descriptions of the current range of approved exemptions are included in the preamble to the Final Rule for 2015 and 2016 Sector Operations Plans and 2015 Contracts (80 FR 25143; May 1, 2015) and are not repeated here.

We received a request for an additional sector exemption intended to complement the proposed Framework 55 measure that would remove the ASM coverage requirement for sector trips using 10-inch (25.4-cm), or larger, mesh gillnet gear and fishing exclusively in the inshore GB and SNE/MA broad stock areas (described in section ''6. Groundfish At-Sea Monitoring Program Adjustments''). If this Framework 55 measure is approved, the requested sector exemption would allow vessels on these ASM-exempted sector trips to also target dogfish using 6.5-inch (16.5-cm) mesh within the footprint and season of either the Nantucket Shoals Dogfish Exemption Area (June 1 to October 15), the Eastern Area of the Cape Cod Spiny Dogfish Exemption Area (June 1 to December 31), and the Southern New England Dogfish Gillnet Exemption Area (May 1 to October 31). Sectors seek to participate in this exempted fishery for dogfish while simultaneously being exempted from ASM coverage on extra-large mesh sector trips (*i.e.,* take trips using both greater than 10-inch (25.4-cm) mesh and 6.5-inch (16.5-in) mesh) in an effort to maximize the viability and profitability of their businesses. The Fixed Gear Sector requested this exemption, and we propose to grant this exemption to any sectors that modify their operations plans to include this exemption. In this rule, we propose regulatory text to detail the process for amending sector operations plans during the fishing year in section ''10. Regulatory Corrections

under Regional Administrator Authority.'' While sector trips using this exemption would still be would be exempt from ASM coverage, all groundfish catch on these trips would still be attributed to a sector's ACE.

9. 2016 Fishing Year Annual Measures Under Regional Administrator Authority

The FMP gives us authority to implement certain types of management measures for the common pool fishery, the U.S./Canada Management Area, and Special Management Programs on an annual basis, or as needed. This proposed rule includes a description of these management measures that are being considered for the 2016 fishing year in order to provide an opportunity for the public to comment on whether the proposed measures are appropriate. These measures are not part of Framework 55, and were not specifically proposed by the Council. We are proposing them in conjunction with Framework 55 measures in this action for expediency purposes, and because they relate to the catch limits proposed in Framework 55.

Common Pool Trip Limits

Tables 19 and 20 provide a summary of the current common pool trip limits for fishing year 2015 and the trip limits proposed for fishing year 2016. The proposed 2016 trip limits were developed after considering changes to the common pool sub-ACLs and sector rosters from 2015 to 2016, proposed trimester TACs for 2016, catch rates of each stock during 2015, and other available information.

The default cod trip limit is 300 lb (136 kg) for Handgear A vessels and 75 lb (34 kg) for Handgear B vessels. If the GOM or GB cod landing limit for vessels fishing on a groundfish DAS drops below 300 lb (136 kg), then the respective Handgear A cod trip limit must be reduced to the same limit. Similarly, the Handgear B trip limit must be adjusted proportionally (rounded up to the nearest 25 lb (11 kg)) to the DAS limit. This action proposes a GOM cod landing limit of 25 lb (11 kg) per DAS for vessels fishing on a groundfish DAS, which is 97 percent lower than the default limit specified in the regulations for these vessels (800 lb (363 kg) per DAS). As a result, the proposed Handgear A trip limit for GOM cod is reduced to 25 lb (11 kg) per trip, and the proposed Handgear B trip limit for GOM cod is maintained at 25 lb (11 kg) per trip. This action proposes a GB cod landing limit of 500 lb (227 kg) per DAS for vessels fishing on a groundfish DAS, which is 75 percent lower than the 2,000-lb (907-kg) per DAS default limit specified in the regulations for these vessels. As a result, the proposed Handgear A trip limit for GB cod is maintained at 300 lb (136 kg) per trip, and the proposed Handgear B trip limit for GB cod is reduced to 25 lb (11 kg) per trip.

Vessels with a Small Vessel category permit can possess up to 300 lb (136 kg) of cod, haddock, and yellowtail, combined, per trip. For the 2016 fishing year, we are proposing that the maximum amount of GOM cod and haddock (within the 300-lb (136-kg) trip limit) be set equal to the possession limits applicable to multispecies DAS vessels (see Table 20). This adjustment is necessary to ensure that the trip limit applicable to the Small Vessel category permit is consistent with reductions to the trip limits for other common pool vessels, as described above.

TABLE 19—PROPOSED COMMON POOL TRIP LIMITS FOR THE 2016 FISHING YEAR

Stock	Current 2015 trip limit	Proposed 2016 trip limit
GB Cod (outside Eastern U.S./Canada Area)	2,000 lb (907 kg)/DAS, up to 20,000 lb (9,072	500 lb (227 kg)/DAS, up to 2,500 lb/trip
GB Cod (inside Eastern U.S./Canada Area)	100 lb (45 kg)/DAS, up to 500 lb (227 kg)/trip	
GOM Cod	50 lb (23 kg)/DAS, up to 200 lb (91 kg)/trip	25 lb (11 kg)/DAS up to 100 lb (45 kg)/trip
GB Haddock	25,000 lb (11,340 kg)/trip	100,000 lb (45,359 kg)/trip
GOM Haddock	50 lb (23 kg)/DAS, up to 200 lb (91 kg)/trip	100 lb (45 kg)/DAS up to 300 lb (136 kg)/trip
GB Yellowtail Flounder	100 lb (45 kg)/trip	
SNE/MA Yellowtail Flounder	2,000 lb (907 kg)/DAS, up to 6,000 lb (2,722 kg)/trip.	250 lb (113 kg)/DAS, up to 500 lb (227 kg)/trip
CC/GOM Yellowtail Flounder	1,500 lb (680 kg)/DAS up to 3,000 lb (1,361 kg)/trip.	75 lb (34 kg)/DAS up to 1,500 lb (680 kg)/trip
American plaice	Unlimited	1,000 lb (454 kg)/trip
Witch Flounder	1,000 lb (454 kg)/trip	250 lb (113 kg)/trip
GB Winter Flounder	1,000 lb (454 kg)/trip	250 lb (113 kg)/trip
GOM Winter Flounder	1,000 lb (454 kg)/trip	2,000 lb (907 kg)/trip
SNE/MA Winter Flounder	3,000 lb (1,361 kg)/DAS, up to 6,000 lb (2,722 kg)/trip.	2,000 lb (907 kg)/DAS, up to 4,000 lb (1,814 kg)/trip
Redfish	Unlimited	
White hake	1,500 lb (680 kg)/trip	
Pollock	10,000 lb (4,536 kg)/trip	Unlimited
Atlantic Halibut	1 fish/trip	
Windowpane Flounder	Possession Prohibited	
Ocean Pout		
Atlantic Wolffish		

TABLE 20—PROPOSED COD TRIPS LIMITS FOR HANDGEAR A, HANDGEAR B, AND SMALL VESSEL CATEGORY PERMITS FOR THE 2016 FISHING YEAR

Permit	Current 2015 trip limit	Proposed 2016 trip limit
Handgear A GOM Cod	50 lb (23 kg)/trip	25 lb (11 kg)/trip.
Handgear A GB Cod	300 lb (136 kg)/trip.	
Handgear B GOM Cod	25 lb (11 kg)/trip.	
Handgear B GB Cod	75 lb (34 kg)/trip	25 lb (11 kg)/trip.
Small Vessel Category	300 lb (136 kg) of cod, haddock, and yellowtail flounder combined.	
	Maximum of 50 lb (23 kg) of GOM cod and 50 lb (23 kg) of GOM haddock within the 300-lb combined trip limit.	Maximum of 25 lb (11 kg) of GOM cod and 100 lb (45 kg) of GOM haddock within the 300-lb combined trip limit.

Closed Area II Yellowtail Flounder/Haddock Special Access Program

This action proposes to allocate zero trips for common pool vessels to target yellowtail flounder within the Closed Area II Yellowtail Flounder/Haddock SAP for fishing year 2016. Vessels could still fish in this SAP in 2016 to target haddock, but must fish with a haddock separator trawl, a Ruhle trawl, or hook gear. Vessels would not be allowed to fish in this SAP using flounder trawl nets. This SAP is open from August 1, 2016, through January 31, 2017.

We have the authority to determine the allocation of the total number of trips into the Closed Area II Yellowtail Flounder/Haddock SAP based on several criteria, including the GB yellowtail flounder catch limit and the amount of GB yellowtail flounder caught outside of the SAP. The FMP specifies that no trips should be allocated to the Closed Area II Yellowtail Flounder/Haddock SAP if the available GB yellowtail flounder catch is insufficient to support at least 150 trips with a 15,000-lb (6,804-kg) trip limit (or 2,250,000 lb (1,020,600 kg)). This calculation accounts for the projected catch from the area outside the SAP. Based on the proposed fishing year 2016 GB yellowtail flounder groundfish sub-ACL of 465,175 lb (211,000 kg), there is insufficient GB yellowtail flounder to allocate any trips to the SAP, even if the projected catch from outside the SAP area is zero. Further, given the low GB yellowtail flounder catch limit, catch rates outside of this SAP are more than adequate to fully harvest the 2016 GB yellowtail flounder allocation.

10. Regulatory Corrections Under Regional Administrator Authority

The following changes are being proposed to the regulations to clarify regulatory intent, correct references, inadvertent deletions, and other minor errors.

In § 648.87(b)(4)(i)(G), this proposed rule would revise text to clarify that NMFS will determine the adequate level of insurance that monitoring service providers must provide to cover injury, liability, and accidental death to cover at-sea monitors, and notify potential service providers.

In § 648.87(c)(2)(i)(A), this proposed rule would correct the inadvertent deletion of the definition of the Fippennies Ledge Area.

In § 648.87(c), this proposed rule would add regulatory text to detail the process for amending sector operations plans during the fishing year.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has made a preliminary determination that this proposed rule is consistent with Framework 55, other provisions of the Magnuson-Stevens Act, and other applicable law. In making the final determination, we will consider the data, views, and comments received during the public comment period.

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

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

An Initial Regulatory Flexibility Analysis (IRFA) was prepared for this proposed rule, as required by section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603. The IRFA describes the economic impact that this proposed rule would have on small entities, including small businesses, and also determines ways to minimize these impacts. The IRFA includes this section of the preamble to this rule and analyses contained in Framework 55 and its accompanying EA/RIR/IRFA. A copy of the full analysis is available from the Council (see **ADDRESSES**). A summary of the IRFA follows.

Description of the Reason Why Action by the Agency Is Being Considered and Statement of the Objective of, and Legal Basis for, This Proposed Rule

This action proposes management measures, including annual catch limits, for the multispecies fishery in order to prevent overfishing, rebuild overfished groundfish stocks, and achieve optimum yield in the fishery. A complete description of the action, why it is being considered, and the legal basis for this action are contained in Framework 55, and elsewhere in the preamble to this proposed rule, and are not repeated here.

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

The Small Business Administration defines a small business as one that is:

- Independently owned and operated;
- Not dominant in its field of operation;
- Has annual receipts that do not exceed—
  - $20.5 million in the case of commercial finfish harvesting entities (NAIC[1] 114111)
  - $5.5 million in the case of commercial shellfish harvesting entities (NAIC 114112)
  - $7.5 million in the case of for-hire fishing entities (NAIC 114119); or
- Has fewer than—
  - 750 employees in the case of fish processors

[1] The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

○ 100 employees in the case of fish dealers.

This proposed rule impacts commercial and recreational fish harvesting entities engaged in the groundfish fishery, the small-mesh multispecies and squid fisheries, the midwater trawl herring fishery, and the scallop fishery. Individually-permitted vessels may hold permits for several fisheries, harvesting species of fish that are regulated by several different FMPs, even beyond those impacted by the proposed action. Furthermore, multiple-permitted vessels and/or permits may be owned by entities affiliated by stock ownership, common management, identity of interest, contractual relationships, or economic dependency. For the purposes of the Regulatory Flexibility Act analysis, the ownership entities, not the individual vessels, are considered to be the regulated entities.

Ownership entities are defined as those entities with common ownership personnel as listed on the permit application. Only permits with identical ownership personnel are categorized as an ownership entity. For example, if five permits have the same seven persons listed as co-owners on their permit application, those seven persons would form one ownership entity that holds those five permits. If two of those seven owners also co-own additional vessels, these two persons would be considered a separate ownership entity.

On June 1 of each year, NMFS identifies ownership entities based on a list of all permits for the most recent complete calendar year. The current ownership dataset used for this analysis was created on June 1, 2015, based on calendar year 2014 and contains average gross sales associated with those permits for calendar years 2012 through 2014.

In addition to classifying a business (ownership entity) as small or large, a business can also be classified by its primary source of revenue. A business is defined as being primarily engaged in fishing for finfish if it obtains greater than 50 percent of its gross sales from sales of finfish. Similarly, a business is defined as being primarily engaged in fishing for shellfish if it obtains greater than 50 percent of its gross sales from sales of shellfish.

A description of the specific permits that are likely to be impacted by this action is provided below, along with a discussion of the impacted businesses, which can include multiple vessels and/or permit types.

Regulated Commercial Fish Harvesting Entities

Table 18 describes the total number of commercial business entities potentially regulated by the proposed action. As of June 1, 2015, there were 1,359 commercial business entities potentially regulated by the proposed action. These entities participate in, or are permitted for, the groundfish, small-mesh multispecies, herring midwater trawl, and scallop fisheries. For the groundfish fishery, the proposed action directly regulates potentially affected entities through catch limits and other management measures designed to achieve the goals and objectives of the FMP. For the non-groundfish fisheries, the proposed action includes allocations for groundfish stocks caught as bycatch in these fisheries. For each of these fisheries, there are accountability measures that are triggered if their respective allocations are exceeded. As a result, the likelihood of triggering an accountability measure is a function of changes to the ACLs each year.

TABLE 18—COMMERCIAL FISH HARVESTING ENTITIES REGULATED BY THE PROPOSED ACTION

Type	Total number	Classified as small businesses
Primarily finfish	385	385
Primarily shellfish	480	462
Primarily for hire	297	297
No Revenue	197	197
Total	1,359	1,341

Limited Access Groundfish Fishery

The proposed action will directly impact entities engaged in the limited access groundfish fishery. The limited access groundfish fishery consists of those enrolled in the sector program and those in the common pool. Both sectors and the common pool are subject to catch limits, and accountability measures that prevent fishing in a respective stock area when the entire catch limit has been caught. Additionally, common pool vessels are subject to DAS restrictions and trip limits. All permit holders are eligible to enroll in the sector program; however, many vessels remain in the common pool because they have low catch histories of groundfish stocks, which translate into low PSCs. Low PSCs limit a vessel's viability in the sector program. In general, businesses enrolled in the sector program rely more heavily on sales of groundfish species than vessels enrolled in the common pool.

As of June 1, 2015 (just after the start of the 2015 fishing year), there were 1,068 individual limited access multispecies permits. Of these, 627 were enrolled in the sector program, and 441 were in the common pool. For fishing year 2014, which is the most recent complete fishing year, 717 of these limited access permits had landings of any species, and 273 of these permits had landings of groundfish species.

Of the 1,068 individual limited access multispecies permits potentially impacted by this action, there are 661 distinct ownership entities. Of these, 649 are categorized as small entities, and 12 are categorized as large entities. However, these totals may mask some diversity among the entities. Many, if not most, of these ownership entities maintain diversified harvest portfolios, obtaining gross sales from many fisheries and not dependent on any one. However, not all are equally diversified. This action is most likely to affect those entities that depend most heavily on sales from harvesting groundfish species. There are 61 entities that are groundfish-dependent (obtain more than 50 percent of gross sales from groundfish species), all of which are small, and all but one of which are finfish commercial harvesting businesses.

Limited Access Scallop Fisheries

The limited access scallop fisheries include Limited Access (LA) scallop permits and Limited Access General Category (LGC) scallop permits. LA scallop businesses are subject to a mixture of DAS restrictions and dedicated area trip restrictions. LGC scallop businesses are able to acquire and trade LGC scallop quota, and there is an annual cap on quota/landings. The

scallop fishery receives an allocation for GB and SNE/MA yellowtail flounder and southern windowpane flounder. If these allocations are exceeded, accountability measures are implemented in a subsequent fishing year. These accountability measures close certain areas of high groundfish bycatch to scallop fishery, and the length of the closure depends on the magnitude of the overage.

Of the total commercial business entities potentially affected by this action (1,359), there are 169 scallop fishing entities. The majority of these entities are defined as shellfish businesses (166). However, three of these entities are defined as finfish businesses, all of which are small. Of the total scallop fishing entities, 154 entities are classified as small entities.

Midwater Trawl Fishery

There are five categories of permits for the herring fishery. Three of these permit categories are limited access, and vary based on the allowable herring possession limits and areas fished. The remaining two permit categories are open access. Although there is a large number of open access permits issued each year, these categories are subject to fairly low possession limits for herring, account for a very small amount of the herring landings, and derive relatively little revenue from the fishery. Only the midwater trawl herring fishery receives an allocation of GOM and GB haddock. Once the entire allocation for either stock has been caught, the directed herring fishery for midwater trawl vessels is closed in the respective area for the remainder of the fishing year. Additionally, if the midwater trawl fishery exceeds its allocation, the overage is deducted from its allocation in the following fishing year.

Of the total commercial business entities potentially regulated by this action (1,359), there are 63 herring fishing entities. Of these, 39 entities are defined as finfish businesses, all of which are small. There are 24 entities that are defined as shellfish businesses, and 18 of these are considered small. For the purposes of this analysis, squid is classified as shellfish. Thus, because there is some overlap with the herring and squid fisheries, it is likely that these shellfish entities derive most of their revenues from the squid fishery.

Small-Mesh Fisheries

The small-mesh exempted fisheries allow vessels to harvest species in designated areas using mesh sizes smaller than the minimum mesh size required by the Northeast Multispecies FMP. To participate in the small-mesh multispecies (whiting) fishery, vessels must hold either a limited access multispecies permit or an open access multispecies permit. Limited access multispecies permit holders can only target whiting when not fishing under a DAS or a sector trip, and while declared out of the fishery. A description of limited access multispecies permits was provided above. Many of these vessels target both whiting and longfin squid on small-mesh trips, and, therefore, most of them also have open access or limited access Squid, Mackerel, and Butterfish (SMB) permits. As a result, SMB permits were not handled separately in this analysis.

The small-mesh fisheries receive an allocation of GB yellowtail flounder. If this allocation is exceeded, an accountability measure is triggered for a subsequent fishing year. The accountability measure requires small-mesh vessels to use selective trawl gear when fishing on GB. This gear restriction is only implemented for 1 year as a result of an overage, and is removed as long as additional overages do not occur.

Of the total commercial harvesting entities potentially affected by this action, there are 1,007 small-mesh entities. However, this is not necessarily informative because not all of these entities are active in the whiting fishery. Based on the most recent information, 223 of these entities are considered active, with at least 1 lb of whiting landed. Of these entities, 167 are defined as finfish businesses, all of which are small. There are 56 entities that are defined as shellfish businesses, and 54 of these are considered small. Because there is overlap with the whiting and squid fisheries, it is likely that these shellfish entities derive most of their revenues from the squid fishery.

Regulated Recreational Party/Charter Fishing Entities

The charter/party permit is an open access groundfish permit that can be requested at any time, with the limitation that a vessel cannot have a limited access groundfish permit and an open access party/charter permit concurrently. There are no qualification criteria for this permit. Charter/party permits are subject to recreational management measures, including minimum fish sizes, possession restrictions, and seasonal closures.

During calendar year 2015, 425 party/charter permits were issued. Of these, 271 party/charter permit holders reported catching and retaining any groundfish species on at least one for-hire trip. A 2013 report indicated that, in the northeast U.S., the mean gross sales was approximately $27,650 for a charter business and $13,500 for a party boat. Based on the available information, no business approached the $7.5 million large business threshold. Therefore, the 425 potentially regulated party/charter entities are all considered small businesses.

Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of This Proposed Rule

The proposed action contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This requirement will be submitted to OMB for approval under OMB Control Number 0648–0605: Northeast Multispecies Amendment 16 Data Collection. The proposed action does not duplicate, overlap, or conflict with any other Federal rules.

This action proposes to adjust the ACE transfer request requirement implemented through Amendment 16. This rule would add a new entry field to the Annual Catch Entitlement (ACE) transfer request form to allow a sector to indicate how many pounds of eastern GB cod ACE it intends to re-allocate to the Western U.S./Canada Area. This change is necessary to allow a sector to apply for a re-allocation of eastern GB ACE in order to increase fishing opportunities in the Western U.S./Canada Area. Currently, all sectors use the ACE transfer request form to initiate ACE transfers with other sectors, or to re-allocation eastern GB haddock ACE to the Western U.S./Canada Area, via an online or paper form to the Regional Administrator. The proposed change adds a single field to this form, and would not affect the number of entities required to comply with this requirement. Therefore, the proposed change would not be expected to increase the time or cost burden associated with the ACE transfer request requirement. Public reporting burden for this requirement includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

Federal Rules Which May Duplication, Overlap, or Conflict With This Proposed Rule

The proposed regulations do not create overlapping regulations with any state regulations or other federal laws.

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

The economic impacts of each proposed measure is discussed in more detail in sections 7.4 and 8.11 of the Framework 55 Environmental Assessment and are not repeated here. The only alternatives to the proposed action that accomplish the stated objectives and minimize significant economic impacts on small entities are related to the witch flounder ABCs under the annual catch limits and the alternative to modify the definition of the haddock separator trawl.

Witch Flounder ABCs and Groundfish Annual Catch Limits

The proposed action would set catch limits for all 20 groundfish stocks. For 19 of the stocks, there is only a single catch limit alternative to the No Action alternative, described in Table 5 in the preamble. For witch flounder, there are three non-selected alternatives to the proposed ABC of 460 mt, namely 399 mt, 500 mt, and the No Action alternative. In each of these witch flounder alternatives, except for the No Action alternative, all other groundfish stock allocations would remain the same as those described in Table 5. It is important to note that all of the non-selected action alternatives assume a 14-percent target ASM coverage level for 2016. The No Action alternative assumes a 41-percent target ASM coverage level for 2016.

For the commercial groundfish fishery, the proposed catch limits (460 mt witch flounder ABC) are expected to result in a 10-percent decrease in gross revenues on groundfish trips, or $8 million, compared to predicted gross revenues for the 2015 fishing year. The impacts of the proposed catch limits would not be uniformly distributed across vessels size classes and ports. Vessels in the 30–50 ft (9–15 m) category are expected to see gross revenue increases of 2 percent. Vessels in the 50–75 ft (15–23 m) size class are expected to see revenue increases of 19 percent. The largest vessels (75 ft (23 m) and greater) are predicted to incur the largest decreases in gross revenues revenue decreases of 30 percent relative to 2015, due primarily to reductions in several GB and SNE/MA stocks (*e.g.,* GB cod, GB winter flounder, SNE/MA yellowtail flounder, SNE/MA winter flounder).

Southern New England ports are expected to be negatively impacted, with New Jersey, New York, and Rhode Island predicted to incur revenue losses of 100 percent, 80 percent, and 62 percent, respectively, relative to 2015. These large revenue losses are also due to reductions in GB and SNE/MA stocks. Maine and Massachusetts are also predicted to incur revenue losses of 16 percent and 6 percent, respectively, as a result of the proposed catch limits, while New Hampshire is expected to have small increases in gross revenues of up to 8 percent. For major home ports, New Bedford is predicted to see a 47-percent decline in revenues relative to 2015, and Point Judith expected to see a 58-percent decline. Boston and Gloucester, meanwhile, are predicted to have revenue increases of 31 and 29 percent, respectively, compared to 2015.

Two of the three non-selected alternatives would have set all groundfish allocations at the levels described in Table 5, with the exception of the witch flounder allocation. In the alternative where the witch flounder ABC is set at 399 mt, gross revenues are predicted to be the same as for the proposed alternative (460-mt witch flounder ABC), namely a 10-percent decrease in gross revenues on groundfish trips, or $8 million, compared to predicted gross revenues for the 2015 fishing year. The 399-mt alternative is also expected to provide the same changes in gross revenue by vessels size class. In the alternative where the witch flounder ABC is set at 500 mt, gross revenues are predicted to be slightly lower than the proposed alternative, namely an 11-percent decrease in gross revenues on groundfish trips, or $9 million, compared to predicted gross revenues for fishing year 2015. Vessels in the 30–50 ft (9–15 m) category are expected to see gross revenue increases of 4 percent. Vessels in the 50–75 ft (15–23 m) size class are expected to see revenue increases of 15 percent. The largest vessels (75 ft (23 m) and greater) are predicted to incur the largest decreases in gross revenues revenue decreases of 28 percent relative to 2015. State and port-level impacts are also similar across the action alternatives.

Under the No Action option, groundfish vessels would only have 3 months (May, June, and July) to operate in the 2016 fishing year before the default specifications expire. Once the default specifications expire, there would be no ACL for a number of the groundfish stocks, and the fishery would be closed for the remainder of the fishing year. This would result in greater negative economic impacts for vessels compared to the proposed action due to lost revenues as a result of being unable to fish. The proposed action is predicted to result in approximately $69 million in gross revenues from groundfish trips. Roughly 92 percent of this revenue would be lost if no action was taken to specify catch limits. Further, if no action was taken, the Magnuson-Stevens Act requirements to achieve optimum yield and consider the needs of fishing communities would be violated.

Each of the 2016 ACL alternatives show a decrease in gross revenue when compared to the 2015 fishing year. When compared against each other, the economic analysis of the various witch flounder ABC alternatives did not show any gain in gross revenue at the fishery level, or any wide difference in vessel and port-level gross revenue, as the witch flounder ABC increased. The economic analysis consistently showed other stocks (GB cod, GOM cod, and SNE/MA yellowtail flounder) would be more constraining than witch flounder, which may partially explain the lack of predicted revenue increases with higher witch flounder ABCs. In addition, there are other assumptions in the economic analysis that may mask sector and vessel level impacts that could result from alternatives with lower witch flounder ABCs. Ultimately, the proposed alternative (460-mt witch flounder ABC) is expected to mitigate potential economic impacts to fishing communities compared to both the No Action alternative and the 399-mt witch flounder ABC alternative, while reducing the biological concerns of an increased risk of overfishing compared to the 500-mt witch flounder ABC alternative.

The proposed catch limits are based on the latest stock assessment information, which is considered the best scientific information available, and the applicable requirements in the FMP and the Magnuson-Stevens Act. With the exception of witch flounder, the only other possible alternatives to the catch limits proposed in this action that would mitigate negative impacts would be higher catch limits. Alternative, higher catch limits, however, are not permissible under the law because they would not be consistent with the goals and objectives of the FMP, or the Magnuson-Stevens Act, particularly the requirement to prevent overfishing. The Magnuson-Stevens Act, and case law, prevent

implementation of measures that conflict with conservation requirements, even if it means negative impacts are not mitigated. The catch limits proposed in this action are the highest allowed given the best scientific information available, the SSC's recommendations, and requirements to end overfishing and rebuild fish stocks. The only other catch limits that would be legal would be lower than those proposed in this action, which would not mitigate the economic impacts of the proposed catch limits.

Modification of the Definition of the Haddock Separator Trawl

The proposed action would modify the current definition of the haddock separator trawl to require that the separator panel contrasts in color to the portions of the net that it separates. An estimated 46 unique vessels had at least one trip that used a haddock separator trawl from 2013–2015. The costs for labor and installation of a new separator panel are estimated to range from $560 to $1,400 per panel. The No Action alternative would not modify the current definition of the haddock separator trawl. The proposed action is expected to expedite Coast Guard vessel inspections when compared to the No Action alternative, which could improve enforceability of this gear type and reduce delays in fishing operations while inspections occur.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: March 11, 2016.

Samuel D. Rauch III,

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

For the reasons stated in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

■ 2. In § 648.14, revise paragraph (k)(16)(iii)(B) to read as follows:

§ 648.14 Prohibitions.

* * * * *

(k) * * *

(16) * * *

(iii) * * *

(B) Fail to comply with the requirements specified in § 648.81(f)(5)(v) when fishing in the areas described in § 648.81(d)(1), (e)(1), and (f)(4) during the time periods specified.

■ 3. In § 648.85, revise paragraph (a)(3)(iii)(A) to read as follows:

§ 648.85 Special management programs.

(a) * * *

(3) * * *

(iii) * * *

(A) *Haddock Separator Trawl.* A haddock separator trawl is defined as a groundfish trawl modified to a vertically-oriented trouser trawl configuration, with two extensions arranged one over the other, where a codend shall be attached only to the upper extension, and the bottom extension shall be left open and have no codend attached. A horizontal large-mesh separating panel constructed with a minimum of 6.0-inch (15.2-cm) diamond mesh must be installed between the selvedges joining the upper and lower panels, as described in paragraphs (a)(3)(iii)(A) and (B) of this section, extending forward from the front of the trouser junction to the aft edge of the first belly behind the fishing circle. The horizontal large-mesh separating panel must be constructed with mesh of a contrasting color to the upper and bottom extensions of the net that it separates.

(*1*) *Two-seam bottom trawl nets*—For two seam nets, the separator panel will be constructed such that the width of the forward edge of the panel is 80–85 percent of the width of the after edge of the first belly of the net where the panel is attached. For example, if the belly is 200 meshes wide (from selvedge to selvedge), the separator panel must be no wider than 160–170 meshes wide.

(*2*) *Four-seam bottom trawl nets*—For four seam nets, the separator panel will be constructed such that the width of the forward edge of the panel is 90–95 percent of the width of the after edge of the first belly of the net where the panel is attached. For example, if the belly is 200 meshes wide (from selvedge to selvedge), the separator panel must be no wider than 180–190 meshes wide. The separator panel will be attached to both of the side panels of the net along the midpoint of the side panels. For example, if the side panel is 100 meshes tall, the separator panel must be attached at the 50th mesh.

* * * * *

■ 3. In § 648.87:

■ A. Revise paragraphs (a)(1) and (2), (b)(1)(i)(B)(*2*), (b)(1)(v)(B) introductory text, and (b)(1)(v)(B)(*1*)(*i*);

■ B. Add paragraph (b)(1)(v)(B)(*1*)(*ii*);

■ C. Revise paragraph (b)(4)(i)(G);

■ D. Add paragraphs (c)(2)(i)(A), reserved paragraph (c)(2)(i)(B), and (c)(4); and

■ E. Revise paragraphs, (d), and (e)(3)(iv).

The revisions and additions read as follows:

§ 648.87 Sector allocation.

(a) *Procedure for approving/implementing a sector allocation proposal.* (1) Any person may submit a sector allocation proposal for a group of limited access NE multispecies vessels to NMFS. The sector allocation proposal must be submitted to the Council and NMFS in writing by the deadline for submitting an operations plan and preliminary sector contract that is specified in paragraph (b)(2) of this section. The proposal must include a cover letter requesting the formation of the new sector, a complete sector operations plan and preliminary sector contract, prepared as described in in paragraphs (b)(2) and (3) of this section, and appropriate analysis that assesses the impact of the proposed sector, in compliance with the National Environmental Policy Act.

(2) Upon receipt of a proposal to form a new sector allocation, and following the deadline for each sector to submit an operations plan, as described in paragraph (b)(2) of this section, NMFS will notify the Council in writing of its intent to consider a new sector allocation for approval. The Council will review the proposal(s) and associated NEPA analyses at a Groundfish Committee and Council meeting, and provide its recommendation on the proposed sector allocation to NMFS in writing. NMFS will make final determinations regarding the approval of the new sectors based on review of the proposed operations plans, associated NEPA analyses, and the Council's recommendations, and in a manner consistent with the Administrative Procedure Act. NMFS will only approve a new sector that has received the Council's endorsement.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(B) * * *

(*2*) *Re-allocation of haddock or cod ACE.* A sector may re-allocate all, or a portion, of a its haddock or cod ACE specified to the Eastern U.S./Canada Area, pursuant to paragraph (b)(1)(i)(B)(*1*) of this section, to the Western U.S./Canada Area at any time during the fishing year, and up to 2 weeks into the following fishing year (*i.e.,* through May 14), unless otherwise instructed by NMFS, to cover any overages during the previous fishing year. Re-allocation of any ACE only

becomes effective upon approval by NMFS, as specified in paragraphs (b)(1)(i)(B)(*2*)(*i*) through (*iii*) of this section. Re-allocation of haddock or cod ACE may only be made within a sector, and not between sectors. For example, if 100 mt of a sector's GB haddock ACE is specified to the Eastern U.S./Canada Area, the sector could re-allocate up to 100 mt of that ACE to the Western U.S./Canada Area.

(*i*) *Application to re-allocate ACE.* GB haddock or GB cod ACE specified to the Eastern U.S./Canada Area may be re-allocated to the Western U.S./Canada Area through written request to the Regional Administrator. This request must include the name of the sector, the amount of ACE to be re-allocated, and the fishing year in which the ACE re-allocation applies, as instructed by the Regional Administrator.

(*ii*) *Approval of request to re-allocate ACE.* NMFS shall approve or disapprove a request to re-allocate GB haddock or GB cod ACE provided the sector, and its participating vessels, are in compliance with the reporting requirements specified in this part. The Regional Administrator shall inform the sector in writing, within 2 weeks of the receipt of the sector's request, whether the request to re-allocate ACE has been approved.

(*iii*) *Duration of ACE re-allocation.* GB haddock or GB cod ACE that has been re-allocated to the Western U.S./Canada Area pursuant to this paragraph (b)(1)(i)(B)(*2*) is only valid for the fishing year in which the re-allocation is approved, with the exception of any requests that are submitted up to 2 weeks into the subsequent fishing year to address any potential ACE overages from the previous fishing year, as provided in paragraph (b)(1)(iii) of this section, unless otherwise instructed by NMFS.

* * * * *

(v) * * *

(B) *Independent third-party monitoring program.* A sector must develop and implement an at-sea or electronic monitoring program that is satisfactory to, and approved by, NMFS for monitoring catch and discards and utilization of sector ACE, as specified in this paragraph (b)(1)(v)(B). The primary goal of the at-sea/electronic monitoring program is to verify area fished, as well as catch and discards by species and gear type, in the most cost-effective means practicable. All other goals and objectives of groundfish monitoring programs at § 648.11(l) are considered equally-weighted secondary goals. The details of any at-sea or electronic monitoring program must be specified in the sector's operations plan, pursuant to paragraph (b)(2)(xi) of this section, and must meet the operational standards specified in paragraph (b)(5) of this section. Electronic monitoring may be used in place of actual observers if the technology is deemed sufficient by NMFS for a specific trip type based on gear type and area fished, in a manner consistent with the Administrative Procedure Act. The level of coverage for trips by sector vessels is specified in paragraph (b)(1)(v)(B)(*1*) of this section. The at-sea/electronic monitoring program shall be reviewed and approved by the Regional Administrator as part of a sector's operations plans in a manner consistent with the Administrative Procedure Act. A service provider providing at-sea or electronic monitoring services pursuant to this paragraph (b)(1)(v)(B) must meet the service provider standards specified in paragraph (b)(4) of this section, and be approved by NMFS in a manner consistent with the Administrative Procedure Act.

(*1*) * * *

(*i*) *At-sea/electronic monitoring.* Coverage levels must be sufficient to at least meet the coefficient of variation specified in the Standardized Bycatch Reporting Methodology at the overall stock level for each stock of regulated species and ocean pout, and to monitor sector operations, to the extent practicable, in order to reliably estimate overall catch by sector vessels. In making its determination, NMFS shall take into account the primary goal of the at-sea/electronic monitoring program to verify area fished, as well as catch and discards by species and gear type, in the most cost-effective means practicable, the equally-weighted secondary goals and objectives of groundfish monitoring programs detailed at § 648.11(l), the National Standards and requirements of the Magnuson-Stevens Act, and any other relevant factors. NMFS will determine the total target coverage level (*i.e.,* combined NEFOP coverage and at-sea/electronic monitoring coverage) for the upcoming fishing year using the criteria in this paragraph. Annual coverage levels will be based on the most recent 3-year average of the total required coverage level necessary to reach the required coefficient of variation for each stock. For example, if data from the 2012 through 2014 fishing years are the most recent three complete fishing years available for the fishing year 2016 projection, NMFS will use data from these three years to determine 2016 target coverage levels. For each stock, the coverage level needed to achieve the required coefficient of variation would be calculated first for each of the 3 years and then averaged (*e.g.,* (percent coverage necessary to meet the required coefficient of variation in year 1 + year 2 + year 3)/3). The coverage level that will apply is the maximum stock-specific rate after considering the following criteria. For a given fishing year, stocks that are not overfished, with overfishing not occurring according to the most recent available stock assessment, and that in the previous fishing year have less than 75 percent of the sector sub-ACL harvested and less than 10 percent of catch comprised of discards, will not be used to predict the annual target coverage level. A stock must meet all of these criteria to be eliminated as a predictor for the annual target coverage level for a given year.

(*ii*) A sector vessel that declares its intent to exclusively fish using gillnets with a mesh size of 10-inch (25.4-cm) or greater in either the Inshore GB Stock Area, as defined at § 648.10(k)(3)(ii), and/or the SNE Broad Stock Area, as defined at § 648.10(k)(3)(iv), is not subject to the coverage rate specified in this paragraph (b)(1)(v)(B)(*1*) of this section provided that the trip is limited to the Inshore GB and/or SNE Broad Stock Areas and that the vessel only uses gillnets with a mesh size of 10-inches (25.4-cm) or greater. When on such a trip, other gear may be on board provided that it is stowed and not available for immediate use as defined in § 648.2. A sector trip fishing with 10-inch (25.4-cm) mesh or larger gillnets will still be subject to the annual coverage rate if the trip declares its intent to fish in any part of the trip in the GOM Stock area, as defined at § 648.10(k)(3)(i), or the Offshore GB Stock Area, as defined at § 648.10(k)(3)(iii).

* * * * *

(4) * * *

(i) * * *

(G) Evidence of adequate insurance (copies of which shall be provided to the vessel owner, operator, or vessel manager, when requested) to cover injury, liability, and accidental death to cover at-sea monitors (including during training); vessel owner; and service provider. NMFS will determine the adequate level of insurance and notify potential service providers;

* * * * *

(c) * * *

(2) * * *

(i) * * *

(A) *Fippennies Ledge Area.* The Fippennies Ledge Area is bounded by the following coordinates, connected by straight lines in the order listed:

FIPPENNIES LEDGE AREA

Point	N. Latitude	W. Longitude
1	42°50.0′	69°17.0′
2	42°44.0′	69°14.0′
3	42°44.0′	69°18.0′
4	42°50.0′	69°21.0′
1	42°50.0′	69°17.0′

(B) [Reserved]

* * * * *

(4) Any sector may submit a written request to amend its approved operations plan to the Regional Administrator. If the amendment is administrative in nature, within the scope of, and consistent with the actions and impacts previously considered for current sector operations, the Regional Administrator may approve an administrative amendment in writing. The Regional Administrator may approve substantive changes to an approved operations plan in a manner consistent with the Administrative Procedure Act and other applicable law. All approved operations plan amendments will be published on the regional office Web site and will be provided to the Council.

(d) *Approved sector allocation proposals.* Eligible NE multispecies vessels, as specified in paragraph (a)(3) of this section, may participate in the sectors identified in paragraphs (d)(1) through (25) of this section, provided the operations plan is approved by the Regional Administrator in accordance with paragraph (c) of this section and each participating vessel and vessel operator and/or vessel owner complies with the requirements of the operations plan, the requirements and conditions specified in the letter of authorization issued pursuant to paragraph (c) of this section, and all other requirements specified in this section. All operational aspects of these sectors shall be specified pursuant to the operations plan and sector contract, as required by this section.

(1) GB Cod Hook Sector.
(2) GB Cod Fixed Gear Sector.
(3) Sustainable Harvest Sector.
(4) Sustainable Harvest Sector II.
(5) Sustainable Harvest Sector III.
(6) Port Clyde Community Groundfish Sector.
(7) Northeast Fishery Sector I.
(8) Northeast Fishery Sector II.
(9) Northeast Fishery Sector III.
(10) Northeast Fishery Sector IV.
(11) Northeast Fishery Sector V.
(12) Northeast Fishery Sector VI.
(13) Northeast Fishery Sector VII.
(14) Northeast Fishery Sector VIII.
(15) Northeast Fishery Sector IX.
(16) Northeast Fishery Sector X.
(17) Northeast Fishery Sector XI.
(18) Northeast Fishery Sector XII.
(19) Northeast Fishery Sector XIII.
(20) Tristate Sector.
(21) Northeast Coastal Communities Sector.
(22) State of Maine Permit Banking Sector.
(23) State of Rhode Island Permit Bank Sector.
(24) State of New Hampshire Permit Bank Sector.
(25) State of Massachusetts Permit Bank Sector

* * * * *

(e) * * *

(3)

(iv) *Reallocation of GB haddock or GB cod ACE.* Subject to the terms and conditions of the state-operated permit bank's MOAs with NMFS, a state-operated permit bank may re-allocate all, or a portion, of its GB haddock or GB cod ACE specified for the Eastern U.S./Canada Area to the Western U.S./Canada Area provided it complies with the requirements in paragraph (b)(1)(i)(B)(*2*) of this section.

* * * * *

§ 648.89 [Amended]

■ 4. In § 648.89, remove and reserve paragraph (f)(3)(ii).

[FR Doc. 2016–06186 Filed 3–18–16; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 81, No. 54

Monday, March 21, 2016

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Humboldt County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Humboldt County Resource Advisory Committee (RAC) will meet in Eureka, California. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following Web site: *http://www.fs.usda.gov/main/srnf/workingtogether/advisorycommittee.*

DATES: The meeting will be held April 12, 2016, at 4:00 p.m.

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

ADDRESSES: The meeting will be held at the Six Rivers National Forest Supervisor's Office, 1330 Bayshore Way, Eureka, California.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Six Rivers National Forest (NF) Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Lynn Wright, RAC Coordinator, by phone at 707–441–3562 or via email at *hwright02@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Provide updates regarding status of Secure Rural Schools Title II program and funding; and

2. Review and recommend projects eligible for funding.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by April 8, 2016, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Lynn Wright, RAC Coordinator, Six Rivers NF Office, 1330 Bayshore Way, Eureka, California 95501; by email to *hwright02@fs.fed.us,* or via facsimile to 707–445–8677.

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

Dated: March 14, 2016.

Merv George, Jr.,

Forest Supervisor.

[FR Doc. 2016–06262 Filed 3–18–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Glenn and Colusa County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Glenn and Colusa County Resource Advisory Committee (RAC) will meet in Willows, CA. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *http://www.fs.usda.gov/main/pts/specialprojects/racweb.*

DATES: The meeting will be held April 18, 2016 from 1:00 p.m. to 4:00 p.m.

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

ADDRESSES: The meeting will be held at 825 North Humboldt Ave., Willows, CA in the Mendocino National Forest Supervisor's Office, Snow Mountain conference room.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Mendocino National Forest, 825 North Humboldt Ave., Willows, CA, (530) 934–3316. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Zach Rich, Committee Coordinator by phone at (530) 934–3316 or via email at *zrich@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is:

1. Discuss current or completed projects and present new projects for review.

The meeting is open to the public. The agenda will include time for people

to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by April 11, 2016 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Zach Rich, Committee Coordinator, USDA, Mendocino National Forest, Grindstone Ranger District, 825 N. Humboldt Ave., Willows, CA 95988; or by email to *zrich@fs.fed.us,* or via facsimile to (530) 934–7384.

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

Dated: March 15, 2016.

Jeanette Williams,

Acting District Ranger.

[FR Doc. 2016–06264 Filed 3–18–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Del Norte County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Del Norte County Resource Advisory Committee (RAC) will meet in Crescent City, California. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following Web site: *http://www.fs.usda.gov/main/srnf/workingtogether/advisorycommittee.*

DATES: The meeting will be held April 19, 2016, at 6:00 p.m.

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

ADDRESSES: The meeting will be held at the Del Norte County Unified School District, Board Room, 301 West Washington Boulevard, Crescent City, California.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Six Rivers National Forest (NF) Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Lynn Wright, RAC Coordinator, by phone at 707–441–3562 or via email at *hwright02@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Provide updates regarding the status of Secure Rural Schools Program and Title II funding; and

2. Review and recommend potential projects eligible for funding.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by April 14, 2016, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Lynn Wright, RAC Coordinator, Six Rivers NF Office, 1330 Bayshore Way, Eureka, California 95501; by email to *hwright02@fs.fed.us,* or via facsimile to 707–445–8677.

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

Dated: March 14, 2016.

Merv George, Jr.,

Forest Supervisor.

[FR Doc. 2016–06259 Filed 3–18–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Tehama County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Tehama County Resource Advisory Committee (RAC) will meet in Red Bluff, CA. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *http://www.fs.usda.gov/main/pts/specialprojects/racweb.*

DATES: The meeting will be held April 14, 2016 from 9:00 a.m. to 12:00 p.m.

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

ADDRESSES: The meeting will be held at 275 Sale Lane, Red Bluff, CA in the Tehama County Farm Bureau conference room.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Mendocino National Forest, 825 North Humboldt Ave., Willows, CA, (530) 934–3316. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Randy Jero, Committee Coordinator by phone at (530) 934–3316 or via email at *rjero@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m.,

Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is:

1. Discuss current or completed projects and present new projects for review.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by April 7, 2016 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Randy Jero, Committee Coordinator, USDA, Mendocino National Forest, Grindstone Ranger District, 825 N. Humboldt Ave., Willows, CA 95988; or by email to *rjero@fs.fed.us,* or via facsimile to (530) 934–7384.

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

Dated: March 15, 2016.

Jeanette Williams,

Acting District Ranger.

[FR Doc. 2016–06263 Filed 3–18–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Wenatchee-Okanogan Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: The Wenatchee-Okanogan Resource Advisory Committee (RAC) will meet in Wenatchee, Washington. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. The purpose of the meeting is to review projects proposed for RAC consideration under Title II of the Act. RAC information can be found at the following Web site: *http://www.fs.usda.gov/main/okawen/workingtogether/advisorycommittees.*

DATES: The meeting will be held from 9:00 a.m. to 3:30 p.m. on April 21, 2016.

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

ADDRESSES: The meeting will be held at the Sunnyslope Fire Station, 206 Easy Street, Wenatchee, Washington.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Okanogan-Wenatchee NF Headquarters Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: RAC Coordinator Robin DeMario by phone at 509–664–9292 or via email at *rdemario@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meetings is to:

1. Provide status updates regarding Secure Rural Schools Program and Title II funding; and

2. Review and recommend projects for Title II funding for Chelan County.

These meetings are open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by April 11, 2016, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Robin DeMario, RAC Coordinator, 215 Melody Lane, Wenatchee, Washington 98801; by email to *rdemario@fs.fed.us* or via facsimile to 509–664–9286.

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

Dated: March 15,2016.

Jason Kuiken,

Deputy Forest Supervisor, Okanogan-Wenatchee National Forest.

[FR Doc. 2016–06265 Filed 3–18–16; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Illinois Advisory Committee To Discuss Findings and Recommendations Regarding Civil Rights and Environmental Justice in the State

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Illinois Advisory Committee (Committee) will hold a meeting on Friday, April 01, 2016, at 12:00 p.m. CDT. The purpose of this meeting is to review and discuss testimony received regarding civil rights and environmental justice in the State, in preparation to draft an advisory memorandum to the Commission on the topic. This study is in support of the Commission's nationally focused 2016 statutory enforcement study.

This meeting is available to the public through the following toll-free call-in number: 888–397–5352, conference ID: 6124172. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement at the end of the meeting. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and

providing the Service with the conference call number and conference ID number.

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

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at *https://database.faca.gov/committee/meetings.aspx?cid=246.* Click on the ''Meeting Details'' and ''Documents'' links to download. Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

Welcome and Introductions
Review and Discussion of Testimony:
Environmental Justice in Illinois
Open Comment
Future plans and actions
Adjournment

DATES: The meeting will be held on Friday, April 01, 2016, at 12:00 p.m. CDT.

Public Call Information: Dial: 888–397–5352; Conference ID: 6124172.

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

Dated: March 16, 2016.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2016–06291 Filed 3–18–16; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Indiana Advisory Committee To Discuss Testimony Regarding Civil Rights and the School to Prison Pipeline in Indiana

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Indiana Advisory Committee (Committee) will hold a meeting on Wednesday, April 20, 2016, from 1:00 p.m.–2:00 p.m. EDT. The Committee will discuss testimony received regarding school discipline policies and practices which may facilitate disparities in juvenile justice involvement and youth incarceration rates on the basis of race, color, disability, or sex, in what has become known as the ''School to Prison Pipeline,'' in preparation to issue a report to the Commission on the topic. This meeting is open to the public via the following toll free call in number 888–539–3678 conference ID 8845908. Any interested member of the public may call this number and listen to the meeting. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

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

Records and documents discussed during the meeting will be available for public viewing prior to and following the meeting at *https://database.faca.gov/committee/meetings.aspx?cid=247* and following the links for ''Meeting Details'' and then ''Documents.'' Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

1. Welcome and Roll Call
2. Debriefing and Review of Public Testimony: ''Civil Rights and the School to Prison Pipeline in Indiana''
3. Open Comment
4. Adjournment

DATES: The meeting will be held on Wednesday, April 20, 2016, from 1:00 p.m.–2:00 p.m. EDT.

Public Call Information

Dial: 888–539–3678.
Conference ID: 8845908.

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

Dated: March 16, 2016.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2016–06293 Filed 3–18–16; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Illinois Advisory Committee To Discuss Draft Advisory Memorandum Regarding Civil Rights and Environmental Justice in the State

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Illinois Advisory Committee (Committee) will hold a meeting on Friday, April 26, 2016, at 12:00 p.m. CDT. The purpose of this meeting is to review and discuss approval of an advisory memorandum to be issued to the Commission regarding civil rights and environmental justice in the State. This memorandum is in support of the Commission's nationally focused 2016 statutory enforcement study.

This meeting is available to the public through the following toll-free call-in number: 888–503–8169, conference ID: 8281453. Any interested member of the public may call this number and listen

to the meeting. An open comment period will be provided to allow members of the public to make a statement at the end of the meeting. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

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

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at *https://database.faca.gov/committee/meetings.aspx?cid=246.* Click on the ''Meeting Details'' and ''Documents'' links to download. Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

Welcome and Introductions
Review and Discussion of Advisory Memorandum: Environmental Justice in Illinois
Open Comment
Future plans and actions
Adjournment

DATES: The meeting will be held on Friday, April 26, 2016, at 12:00 p.m. CDT.

Public Call Information: Dial: 888–503–8169; Conference ID: 8281453.

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

Dated: March 16, 2016.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2016–06292 Filed 3–18–16; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–601]

Brass Sheet and Strip From Italy; Final Results of Antidumping Duty Administrative Review; 2014–2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On November 30, 2015, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of the administrative review of the antidumping duty order on brass sheet and strip (BSS) from Italy covering the period of review (POR) March 1, 2014, through February 28, 2015.[1] This review covers one company, KME Italy SpA (KME Italy). The Department conducted this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). The Department gave interested parties an opportunity to comment on the *Preliminary Results,* but we received no comments. Hence, these final results are unchanged from the *Preliminary Results.*

DATE: Effective March 21, 2016.

FOR FURTHER INFORMATION CONTACT: Joseph Shuler, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1293.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise subject to the antidumping duty order is brass sheet and strip, other than leaded brass and tin brass sheet and strip, from Italy, which is currently classified under subheading 7409.21.00.50, 7409.21.00.75, 7409.21.00.90, 7409.29.00.50, 7409.29.00.75, and 7409.29.00.90 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS numbers are provided for convenience and customs purposes. A full description of the scope of the order is contained in the Preliminary Decision Memorandum. The written description is dispositive.

Final Results of Review

As a result of our review, we determine that the following dumping margin on BSS from Italy exists for the period March 1, 2014, through February 28, 2015:

Exporter/manufacturer	Dumping margin (percent)
KME Italy SpA	22.00

Assessment Rates

We will instruct U.S. Customs and Border Protection (CBP) to apply an *ad valorem* assessment rate of 22.00 percent to all entries of subject merchandise during the POR which were produced and/or exported by KME Italy SpA. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of BSS from Italy entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for KME Italy SpA will be equal to the dumping margin established in the final results of this review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value (LTFV) investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer has its own rate, the cash deposit rate will continue to be 5.44 percent, the all-others rate determined in the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until further notice.

[1] *See Brass Sheet and Strip From Italy; Preliminary Results of Antidumping Duty Administrative Review; 2014–2015,* 80 FR 74759 (November 30, 2015) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum.

Notifications to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification to Interested Parties

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 14, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–06298 Filed 3–18–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–523–812, A–535–903, A–520–807, A–552–820]

Circular Welded Carbon-Quality Steel Pipe From the Sultanate of Oman, Pakistan, the United Arab Emirates, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations of Antidumping Duty Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Katherine Johnson at (202) 482–4929 (the Sultanate of Oman (Oman)), David Lindgren at (202) 482–3870 (Pakistan), Dennis McClure at (202) 482–5973 (the United Arab Emirates (the UAE)), or Andrew Huston at (202) 482–4261 (the Socialist Republic of Vietnam (Vietnam)); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Postponement of Preliminary Determinations

On November 17, 2015, the Department of Commerce (the Department) initiated antidumping duty investigations of imports of circular welded carbon-quality steel pipe (CWP) from Oman, Pakistan, the UAE and Vietnam.[1] The notice of initiation stated that we would issue our preliminary determinations no later than 140 days after the date of initiation. Currently, the preliminary determinations in these investigations are due on April 11, 2016.[2]

On March 10, 2016, Bull Moose Tube Company; EXLTUBE; Wheatland Tube, a division of JMC Steel Group; and Western Tube and Conduit (hereafter, the petitioners) made timely requests, pursuant to section 733(c)(1)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.205(e), for an extension of the deadline for the preliminary determinations in the investigations.[3] The petitioners stated that a postponement of the preliminary determinations in all four CWP investigations is necessary to provide the Department with sufficient time to reach reasoned preliminary determinations.

Under section 733(c)(1)(A) of the Act, if a petitioner makes a timely request for an extension of the period within which the preliminary determination must be made under subsection (b)(1), then the Department may postpone making the preliminary determination under subsection (b)(1) until not later than the 190th day after the date on which the administering authority initiated the investigation. Therefore, for the reasons stated above, and because there are no compelling reasons to deny the petitioners' requests, the Department is postponing the preliminary determinations in these investigations until May 31, 2016, which is 190 days from the date on which the Department initiated these investigations.

The deadline for the final determinations will continue to be 75 days after the date of the preliminary determinations, unless extended.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: March 14, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–06300 Filed 3–18–16; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Circular Welded Carbon-Quality Steel Pipe From the Sultanate of Oman, Pakistan, the Philippines, the United Arab Emirates, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations,* 80 FR 73708 (November 25, 2015).

[2] As explained in the memorandum from the Acting Assistant Secretary for Enforcement & Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government. *See* Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, regarding ''Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas,'' dated January 27, 2016. All deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the preliminary determination of these investigations is now April 11, 2016.

[3] *See* the petitioners' letter to the Department ''Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman, Pakistan, the United Arab Emirates, and the Socialist Republic of Vietnam: Petitioners' Request to Extend Preliminary Determination,'' dated March 10, 2016.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–967/C–570–968]

Aluminum Extrusions From the People's Republic of China: Initiation of Anti-Circumvention Inquiry

AGENCY: Enforcement & Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request from the Aluminum Extrusions Fair Trade Committee (Petitioner), the Department of Commerce (the Department) is initiating an anti-circumvention inquiry pursuant to sections 781(c) and (d) of the Tariff Act of 1930, as amended, (the Act) to determine whether extruded aluminum products that meet the chemical specifications for 5050-grade aluminum alloy, which are heat-treated, and exported by China Zhongwang Holdings Ltd. and its affiliates (collectively, Zhongwang) are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on aluminum extrusions from the People's Republic of China (PRC).[1]

DATE: Effective March 21, 2016.

FOR FURTHER INFORMATION CONTACT: Scott Hoefke or Robert James, AD/CVD Operations, Office VI, Enforcement &

[1] *See Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order,* 76 FR 30650 (May 26, 2011) and *Aluminum Extrusions from the People's Republic of China: Countervailing Duty Order,* 76 FR 30653 (May 26, 2011) (collectively, the *Orders*).

Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4947 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

In October 2015, Petitioner filed a joint Scope Clarification and Anti-Circumvention Inquiry Request for certain merchandise from Zhongwang. At the request of the Department, on December 30, 2015, Petitioner refiled its request that the Department conduct an anti-circumvention inquiry pursuant to sections 781(c) and (d) of the Act with respect to extruded aluminum products that meet the chemical specifications for 5050-grade aluminum alloy, which are heat-treated, and exported by Zhongwang.[2] In its request, Petitioner contends that Zhongwang's 5050-grade aluminum alloy extrusion products are circumventing the scope of the *Orders,* and requests that the Department address this alleged circumvention by initiating both a ''minor alterations'' anti-circumvention inquiry pursuant to section 781(c) of the Act, as well as a ''later-developed merchandise'' anti-circumvention inquiry pursuant to section 781(d) of the Act.[3] With this refiling, we accepted the Petitioner's submission and set the deadline for action as February 22, 2016. On February 22, 2016, the Department extended the deadline to initiate 21 days to March 14, 2016.

The scope of the *Orders* expressly includes extruded products made of alloy ''with an Aluminum Association series designation commencing with the number 6'' where ''magnesium account{s} for at least 0.1 percent but not more than 2.0 percent of total materials by weight, and silicon account{s} for at least 0.1 percent but not more than 3.0 percent of total materials by weight.''[4] In addition, expressly excluded from the *Orders* are extruded products made of alloy ''with an {Aluminum Association} series designation commencing with the number 5 and containing in excess of 1.0 percent magnesium by weight.''[5] Petitioner argues that the scope of the *Orders* ''creates an overlap between the chemical composition standards {in that} there is a narrow window in which a 5xxx-series alloy may and does exist that is comprised of more than one percent but less than two percent magnesium by weight{,}'' and that ''{i}n order to use 5xxx-series alloy (*i.e.,* 5050 alloy) in an extrusion application, . . . the metal would have to be heat-treated to achieve the mechanical properties that make 6xxx-series alloy so attractive for extrusion applications{.}''[6]

Thus, Petitioner maintains that the aluminum alloy extrusion products at issue are manipulated in two ways to evade the scope of the *Orders:* First, the billet producer must create a precise ratio of silicon to magnesium to result in an alloy that satisfies the chemical composition limits of a 5050 alloy, but behaves and is extrudable like an in-scope 6xxx-series alloy.[7] Second, once the alloy is subject to a heat-treatment tempering process, this allows the extruded alloy to achieve the desired tensile strength to mimic the functionality of in-scope 6xxx-series alloy.[8] Petitioner argues that The Aluminum Association, the certifying body for the domestic aluminum industry, does not currently recognize heat-treatment as a tempering process for 5050-grade aluminum alloy, which is historically tempered through strain-hardening and/or cold-working processes.[9] Rather, The Aluminum Association recognizes heat-treatment as a tempering process for 6xxx-series alloy.[10] In short, Petitioner alleges that these aluminum alloy products are subject to chemical and mechanical manipulation, *i.e.,* tempering, which results in circumvention of the *Orders.*

Petitioner provided evidence that was reasonably available of Zhongwang's alleged circumvention of the *Orders* through its shipment of such 5050-grade aluminum alloy extrusion products.[11] Petitioner provided Zhongwang's financial statements.[12] Petitioner points out that Zhongwang has yet to be selected for an administrative review for the *Orders,* because there were no reported entries of subject merchandise.[13] Petitioner also points out that after the imposition of the *Orders,* the volume of Zhongwang's U.S. exports decreased, but subsequently rebounded since the ''sudden'' appearance and timing of its importation of such 5050-grade aluminum alloy products.[14] Petitioner argues that these facts taken together indicate that Zhongwang is engaging in manipulation to avoid duties.

Scope of Orders

The merchandise covered by the orders is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents). Specifically, the subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 1 contains not less than 99 percent aluminum by weight. The subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 3 contains manganese as the major alloying element, with manganese accounting for not more than 3.0 percent of total materials by weight. The subject merchandise is made from an aluminum alloy with an Aluminum Association series designation commencing with the number 6 contains magnesium and silicon as the major alloying elements, with magnesium accounting for at least 0.1 percent but not more than 2.0 percent of total materials by weight, and silicon accounting for at least 0.1 percent but not more than 3.0 percent of total materials by weight. The subject aluminum extrusions are properly identified by a four-digit alloy series without either a decimal point or leading letter. Illustrative examples from among the approximately 160 registered alloys that may characterize the subject merchandise are as follows: 1350, 3003, and 6060.

Aluminum extrusions are produced and imported in a wide variety of shapes and forms, including, but not limited to, hollow profiles, other solid profiles, pipes, tubes, bars, and rods. Aluminum extrusions that are drawn subsequent to extrusion (drawn aluminum) are also included in the scope.

Aluminum extrusions are produced and imported with a variety of finishes (both coatings and surface treatments), and types of fabrication. The types of coatings and treatments applied to subject aluminum extrusions include, but are not limited to, extrusions that

[2] *See* Letter to the Secretary, Re ''Aluminum Extrusions from the People's Republic of China: Resubmission of Circumvention Inquiry Request Pursuant to the Department's Request,'' dated December 30, 2015 (Petitioner's Resubmission of Circumvention Inquiry).

[3] *Id.* at 39–66.

[4] *See Orders,* 76 FR 30653.

[5] *Id.*

[6] *Id.*

[7] *Id.* at 42–44.

[8] *Id.* at 42–45

[9] *Id.* at 46–47.

[10] *Id.* at Exhibit 21.

[11] *Id.* at 41 and 62.

[12] *Id.* at 50 and Exhibit 3.

[13] *Id.* at 50.

[14] *Id.* at 50.

are mill finished (*i.e.,* without any coating or further finishing), brushed, buffed, polished, anodized (including bright-dip anodized), liquid painted, or powder coated. Aluminum extrusions may also be fabricated, *i.e.,* prepared for assembly. Such operations would include, but are not limited to, extrusions that are cut-to-length, machined, drilled, punched, notched, bent, stretched, knurled, swedged, mitered, chamfered, threaded, and spun. The subject merchandise includes aluminum extrusions that are finished (coated, painted, etc.), fabricated, or any combination thereof.

Subject aluminum extrusions may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, window frames, door frames, solar panels, curtain walls, or furniture. Such parts that otherwise meet the definition of aluminum extrusions are included in the scope. The scope includes the aluminum extrusion components that are attached (*e.g.,* by welding or fasteners) to form subassemblies, *i.e.,* partially assembled merchandise unless imported as part of the finished goods 'kit' defined further below. The scope does not include the non-aluminum extrusion components of subassemblies or subject kits.

Subject extrusions may be identified with reference to their end use, such as fence posts, electrical conduits, door thresholds, carpet trim, or heat sinks (that do not meet the finished heat sink exclusionary language below). Such goods are subject merchandise if they otherwise meet the scope definition, regardless of whether they are ready for use at the time of importation.

The following aluminum extrusion products are excluded: Aluminum extrusions made from aluminum alloy with an Aluminum Association series designations commencing with the number 2 and containing in excess of 1.5 percent copper by weight; aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 5 and containing in excess of 1.0 percent magnesium by weight; and aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 7 and containing in excess of 2.0 percent zinc by weight.

The scope also excludes finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry, such as finished windows with glass, doors with glass or vinyl, picture frames with glass pane and backing material, and solar panels. The scope also excludes finished goods containing aluminum extrusions that are entered unassembled in a ''finished goods kit.'' A finished goods kit is understood to mean a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good and requires no further finishing or fabrication, such as cutting or punching, and is assembled ''as is'' into a finished product. An imported product will not be considered a ''finished goods kit'' and therefore excluded from the scope of the investigation merely by including fasteners such as screws, bolts, *etc.* in the packaging with an aluminum extrusion product.

The scope also excludes aluminum alloy sheet or plates produced by other than the extrusion process, such as aluminum: Products produced by a method of casting. Cast aluminum products are properly identified by four digits with a decimal point between the third and fourth digit. A letter may also precede the four digits. The following Aluminum Association designations are representative of aluminum alloys for casting: 208.0, 295.0, 308.0, 355.0, C355.0, 356.0, A356.0, A357.0, 360.0, 366.0, 380.0, A380.0, 413.0, 443.0, 514.0, 518.1, and 712.0. The scope also excludes pure, unwrought aluminum in any form.

The scope also excludes collapsible tubular containers composed of metallic elements corresponding to alloy code 1080A as designated by The Aluminum Association where the tubular container (excluding the nozzle) meets each of the following dimensional characteristics: (1) Length of 37 millimeters (''mm'') or 62 mm, (2) outer diameter of 11.0 mm or 12.7 mm, and (3) wall thickness not exceeding 0.13 mm.

Also excluded from the scope of these orders are finished heat sinks. Finished heat sinks are fabricated heat sinks made from aluminum extrusions the design and production of which are organized around meeting certain specified thermal performance requirements and which have been fully, albeit not necessarily individually, tested to comply with such requirements.

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 7609.00.00, 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.1 0, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8414.59.60.90, 8415.90.80.45, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8473.30.20.00, 8473.30.51.00, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8508.70.00.00, 8515.90.20.00, 8516.90.50.00, 8516.90.80.50, 8517.70.00.00, 8529.90.73.00, 8529.90.97.60, 8536.90.80.85, 8538.10.00.00, 8543.90.88.80, 8708.29.50.60, 8708.80.65.90, 8803.30.00.60, 9013.90.50.00, 9013.90.90.00, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.11.40.80, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99:20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99 as well as under other HTSUS chapters. In addition, fin evaporator coils may be classifiable under HTSUS numbers: 8418.99.80.50 and 8418.99.80.60. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these orders is dispositive.

Merchandise Subject to the Anti-Circumvention Inquiry

This anti-circumvention inquiry covers extruded aluminum products that meet the chemical specifications for 5050-grade aluminum alloy, which are heat-treated, and exported by Zhongwang.[15] The Department intends to consider whether the inquiry should apply to all imports of extruded aluminum products that meet the chemical specifications for 5050-grade aluminum alloy and are heat-treated, regardless of producer, exporter, or importer, from the PRC.

Request for a Minor Alterations Anti-Circumvention Inquiry

Section 781(c)(1) of the Act provides that the Department may find circumvention of an AD or CVD order when products which are of the class or kind of merchandise subject to an AD or CVD order have been ''altered in form or appearance in minor respects . . . whether or not included in the same tariff classification.'' Section 781(c)(2) of the Act provides an exception that ''{p}aragraph 1 shall not apply with respect to altered merchandise if the administering authority determines that it would be unnecessary to consider the altered merchandise within the scope of the {AD or CVD} order{.}''

The Department notes that, while the statute is silent as to what factors to consider in determining whether alterations are properly considered ''minor,'' the legislative history of this provision indicates there are certain factors which should be considered before reaching an anti-circumvention determination. In conducting an anti-circumvention inquiry under section 781(c) of the Act, the Department has generally relied upon ''such criteria as the overall physical characteristics of the merchandise, the expectations of the ultimate users, the use of the merchandise, the channels of marketing and the cost of any modification relative to the total value of the imported product.'' [16] The Department will examine these factors in evaluating an allegation of minor alteration under section 781(c) of the Act and 19 CFR 351.225(i). Each case is highly dependent on the facts on the record, and must be analyzed in light of those specific facts. Thus, although not specified in the statute, the Department has also included additional factors in its analysis, such as the circumstances under which the products at issue entered the United States and the timing and quantity of said entries during the circumvention review period.[17]

As discussed above, Petitioner argues that the manipulation in chemical composition and tempering to create an aluminum extrusions product which technically meets the scope exclusion for 5xxx-series but behaves like in-scope 6xxx-series subject merchandise results in circumvention of the *Orders* as a minor alteration of in-scope merchandise, pursuant to section 781(c) of the Act.[18] Specifically, Petitioner argues that the products at issue, given their heat-treatment, would otherwise be subject 6xxx-series alloy but for the minor increase in magnesium levels, which allows for a superficial designation as a 5050 alloy.[19] According to Petitioner, this would require a shift in chemistry of a 6063 alloy at the top end of its magnesium content range (*i.e.,* 0.45 to 0.90 percent by weight) by increasing the magnesium content level by a mere 0.2 percent by weight to achieve a magnesium content of 1.1 percent by weight, which is within the low end of the range of the magnesium content range for 5050 alloy.[20] Petitioner states this increase at today's magnesium market price would result in a 4.63 percent increase to the 5050 billet's overall per pound alloying cost, which in turn represents a negligible 0.52 percent increase to the overall per-pound billet production cost.[21] Petitioner states that in *Cut-to-Length Plate from China,*[22] the Department found similar minor changes to alloying elements are not sufficient to remove what would otherwise be subject merchandise from the scope.[23]

Finally, once a precise ratio of silicon to magnesium is achieved, which falls within the chemical composition limits for a 5050 alloy, but is virtually indistinguishable from the chemical composition limits for a 6xxx-series alloy, the product is ready to be heat-treated—the same tempering process used for 6xxx-series alloy, and which is not recognized by The Aluminum Association as a tempering process for 5050 alloy—which results in a product similar to a 6xxx-series aluminum extrusion product, save for the minor increase in magnesium.

In its request for a minor alterations anti-circumvention inquiry, Petitioner presented the following evidence with respect to each of the aforementioned criteria.

A. Overall Physical Characteristics

Petitioner contends that companies such as Zhongwang have created and shipped extruded aluminum products meeting the chemical specifications for 5050-grade aluminum alloy and which are heat-treated, which results in aluminum extrusion products whose chemical and mechanical properties have been manipulated to be similar to those of in-scope 6xxx-series alloy products. Petitioner has provided information relating to an importer that has admitted to sourcing 5050-grade aluminum alloy products for use in products and applications which have traditionally used 6xxx-series alloys, as well as information relating to a domestic producer that has been asked to provide price quotes for the manufacture of products using 5050 alloy which have been made previously with 6xxx-series alloy. Petitioner also obtained and tested specimens labeled as 5050-grade aluminum alloy products, which demonstrated that the chemical composition overlapped with 6xxx-series standards, and had been heat-treated. While Petitioner did not test specimens of Zhongwang's products, information reasonably available to Petitioner indicates that the overall physical characteristics of Zhongwang's 5050-grade aluminum alloy extrusion products would be no different from the tested products, and therefore should be found similar to products made of series 6xxx aluminum alloys.[24]

[15] Petitioner provided names of known Zhongwang's Chinese and U.S. affiliates. Through the course of inquiry, we intend to examine in addition to Zhongwang the following affiliated companies: Dalian Liwan Trade Co., Ltd.; Tianjin Boruxin Trading Co., Ltd.; and Dragon Luxe Limited; Pencheng Aluminum Enterprise Inc. USA; Global Aluminum (USA) Inc.; Signature Aluminum Canada Inc.; Aluminum Shapes, LLC; Perfectus Aluminum Inc.; and Perfectus Aluminum Acquisitions LLC. We also intend to examine whether any Zhongwang's affiliates are the producers of the merchandise at issue.

[16] *See* S. Rep. No. 71, 100th Cong., 1st Sess. 100 (1987) (''In applying this provision, the Commerce Department should apply practical measurements regarding minor alterations, so that circumvention can be dealt with effectively, even where such alterations to an article technically transform it into a differently designated article.'').

[17] *See, e.g., Brass Sheet and Strip From West Germany; Negative Preliminary Determination of Circumvention of Antidumping Duty Order,* 55 FR 32655 (August 10, 1990) unchanged in *Brass Sheet and Strip From Germany; Negative Final Determination of Circumvention of Antidumping Duty Order,* 56 FR 65884 (December 19, 1991), *see also, e.g., Small Diameter Graphite Electrodes From the People's Republic of China: Initiation of Anticircumvention Inquiry,* 77 FR 37873 (June 25, 2012).

[18] *See* Petitioner's Resubmission of Circumvention Inquiry at 52–53.

[19] *Id.*

[20] *Id.* at 52.

[21] *Id.*

[22] *See Affirmative Final Determination of Circumvention of the Antidumping Duty Order on Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China,* 76 FR 50996 (August 17, 2011) (*Cut-to-Length Plate from China*).

[23] *See* Petitioner's Resubmission of Circumvention Inquiry at 52.

[24] *See* Petitioner's Resubmission of Circumvention Inquiry at page 56–58.

B. Expectations of the Ultimate Users and Use of the Merchandise

Petitioner alleges that the expectations of the purchasers and ultimate use of Zhongwang's 5050-grade aluminum alloy extrusion products are identical to those of products produced from 6xxx-series alloy.[25] Petitioner states that the specific alloy out of which the aluminum extrusion is produced has no apparent bearing or impact on the ultimate use.[26] Petitioner provided evidence suggesting that the type of alloy had no bearing on customers' selection of aluminum extrusion products, and that, in some cases, 5050-grade aluminum alloy products were used specifically to avoid antidumping and countervailing duties.[27] Petitioner also provided information indicating that domestic producers are competing with Chinese-sourced 5050-grade aluminum alloy products for the same shower enclosure components designed to be manufactured in 6463 alloy.[28] Petitioner further contends that, although it does not have access to Zhongwang's specific 5050-grade aluminum alloy extrusion products, evidence confirms that Zhongwang began importing a large volume of 5050-grade aluminum alloy products after the *Orders* came into place.[29] Further, Petitioner contends that there is no indication that Zhongwang's products are any different from the 5050-grade aluminum alloy products which have been competing directly with the U.S. industry.[30]

C. Channels of Marketing

Petitioner maintains that there is no difference between the channels of marketing for aluminum extrusions made from in-scope alloy, *i.e.,* 6xxx-series aluminum extrusions, and those of 5050-grade aluminum alloy extrusion products. For instance, Petitioner provided evidence showing that such 5050-grade aluminum alloy extruded products are marketed by Chinese producers to purchasers in the same manner that 6xxx-series are marketed, and such marketing demonstrates to customers and end-users that these products are interchangeable with 6xxx-series products.[31] Moreover, Petitioner states that Zhongwang's Web site advertises a collection of products in a single location on its Web site without designation or differentiation between products crafted or capable of being crafted of different alloys. This demonstrates, Petitioner contends, that Zhongwang's 5050-grade aluminum alloy extrusion products are not marketed any differently from merchandise produced from in-scope 6xxx-series alloy.[32]

D. Cost of Modification

Petitioner indicates that the cost of the minor alterations to shift the chemistry of a high-magnesium series 6xxx alloy to one that one could be designated as 5050 alloy is minimal at best.[33] As discussed above, Petitioner specifically mentions that one would need to increase a 6063 alloy's maximized magnesium content level by 0.2 percent by weight.[34] Petitioner states that this increase at magnesium's market price at the time of filing would result in a 4.63 percent increase to the 5050 billet's overall per pound alloying cost which, Petitioner avers, is insignificant given the *Orders* antidumping and countervailing duties are over 180 percent.[35]

E. Circumstance Under Which the Subject Products Entered the United States

Petitioner argues that at the completion of the original investigations, the PRC-wide antidumping rate was 33.28 percent, and the PRC-wide countervailing duty rate was 374.15 percent.[36] Petitioner asserts that these considerable margins have given Zhongwang tremendous financial incentive to circumvent the *Orders* so as not to incur the costs associated with the duties levied on the entries of subject merchandise.[37]

F. Timing of Entries

Petitioner asserts that the timing of the entries of Zhongwang's 5050-grade aluminum alloy products show Zhongwang's attempt to circumvent the *Orders.*[38] Petitioner supported this assertion by providing import data showing Zhongwang's shipments of 5050-grade aluminum alloy products began after the imposition of the *Orders* in 2011.[39]

Request for a Later-Developed Merchandise Anti-Circumvention Inquiry

Section 781(d)(1) of the Act provides that the Department may initiate an anti-circumvention inquiry to determine whether merchandise developed after an AD or CVD investigation is initiated (''later-developed merchandise'') is within the scope of the order(s). In conducting later-developed merchandise anti-circumvention inquiries under section 781(d)(1) of the Act, the Department will evaluate whether the general physical characteristics of the merchandise under consideration are the same as subject merchandise covered by the order, whether the expectations of the ultimate purchasers of the merchandise under consideration are no different than the expectations of the ultimate purchases of subject merchandise, whether the ultimate use of the subject merchandise and the merchandise under consideration are the same, whether the channels of trade of both products are the same, whether there are any differences in the advertisement and display of both products,[40] and if the merchandise under consideration was commercially available at the time of the investigation, *i.e.,* the product was present in the commercial market or the product was tested and ready for commercial production.[41]

As discussed above, Petitioner argues that the manipulation in chemical composition and tempering to create an aluminum extrusions product which technically meets the scope exclusion for 5xxx-series but behaves like in-scope 6xxx-series subject merchandise results in circumvention of the *Orders* as later-developed merchandise, pursuant to section 781(d) of the Act. Specifically, Petitioner argues that the products constitute later-developed merchandise because: (1) While the 5050-grade alloy designation existed at the time of the investigation, The Aluminum Association did not, and still does not, recognize heat-treatment as a tempering process for 5050-grade aluminum alloy; (2) documents from the investigation indicate that soft alloys, *i.e.,* 1xxx-,

[25] *Id.* at 58–60.

[26] *Id.*

[27] *Id.* at 58–60, Exhibit 30, Exhibit 28, and Exhibit 22.

[28] *Id.* at 59 and Exhibit 28.

[29] *Id.* at 65.

[30] *Id.* at 59.

[31] *Id.* at 60.

[32] *Id.* at 60–61 and Exhibit 19.

[33] *Id.* at 63.

[34] *Id.*

[35] *Id.*

[36] *Id.* at 63–64.

[37] *Id.* at 64.

[38] *Id.*

[39] *Id.* at 65.

[40] *See* section 781(d)(1) of the Act.

[41] *See Later-Developed Merchandise Anticircumvention Inquiry of the Antidumping Duty Order on Petroleum Wax Candles from the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order,* 71 FR 32033, 32035 (June 2, 2006) unchanged in *Later-Developed Merchandise Anticircumvention Inquiry of the Antidumping Duty Order on Petroleum Wax Candles from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order,* 71 FR 59075 (October 6, 2006).

3xxx-, and 6xxx-series alloys, were used in a wide variety of aluminum extrusion products, while hard alloys—such as 5xxx-series—were extremely limited and highly specific, appearing primarily in marine and aerospace applications; and (3) at the time of the filing of the petition, The Aluminum Association recognized only four 5xxx-series alloys employed in extrusion applications—which did not include 5050-grade aluminum alloy.[42]

As described in the ''Request for a Minor Alterations Anti-Circumvention Inquiry'' section above, Petitioner has provided evidence and argument pertaining to the general physical characteristics of the merchandise under consideration as being the same as subject merchandise covered by the order, whether the expectations of the ultimate purchasers of the merchandise under consideration are no different than the expectations of the ultimate purchases of subject merchandise, and whether the ultimate use of the subject merchandise and the merchandise under consideration are the same. In the context of its later-developed merchandise request, Petitioner has further provided the following evidence pertaining to the remaining aforementioned criteria.

A. Advertisement, Display, and Channel of Trade

Petitioner maintains that the advertisement, display, and channels of trade of manipulated 5050-grade aluminum alloy extruded products are identical to those of merchandise produced from in-scope alloys, *i.e.,* 6xxx-series.[43] With respect to advertisement and display, Petitioner provided evidence showing that such 5050-grade aluminum alloy extruded products are advertised by Chinese producers to purchasers in the same manner that 6xxx-series are advertised, which demonstrates to customers and end-users that these products are interchangeable with 6xxx-series products.[44] Moreover, Petitioner states that Zhongwang's Web site advertises and displays a collection of products in a single location on its Web site without designation or differentiation between products crafted or capable of being crafted of different alloys, thus demonstrating that Zhongwang's 5050-grade aluminum alloy extrusion products are not advertised or displayed any differently from merchandise produced from in-scope 6xxx-series alloy.[45]

With respect to channels of trade, Petitioner provided information relating to a domestic producer that has been asked to provide price quotes for the manufacture of products using 5050-grade alloy which have been made previously with 6xxx-series alloy.[46] In addition, Petitioner provided evidence demonstrating a company's loss of business as a result of the replacement of 6xxx-series alloy in products with Chinese 5050-grade alloy.[47] Petitioner argues that these 5050-grade aluminum alloy extrusion products, which caused lost U.S. business, are likely being sold in the identical channels of trade as the original series 6xxx alloy versions.[48]

With respect to Zhongwang, Petitioner notes that the importer of record for nearly all of Zhongwang's shipments of aluminum product to the United States from 2009 to date was the same, regardless of whether those shipments were 6xxx-series profiles prior to the imposition of the orders or 5050-grade products after the imposition of the orders.[49] According to Petitioner, there is no evidence reasonably available which indicates that the channels of trade in which Zhongwang's 5050-grade aluminum alloy extrusion products are sold are different from those in which similar 6xxx-series products are sold.[50] However, the evidence that is reasonably available, *i.e.,* Zhongwang's Web site, shows that Zhongwang advertises a collection of products manufactured exclusively from series 6xxx-series alloy and one product manufactured from 7xxx-series alloy, but makes no mention of series 5xxx products.[51] Petitioner contends that given Zhongwang's importation levels of 5050-grade aluminum alloy extrusion products into the United States it would be advertising these products separately or at the very least mentioned on its Web site.[52] Petitioner argues that the silence with which Zhongwang's Web site treats 5xxx-series products which it is manufacturing and shipping to the United States demonstrates that these products are interchangeable with 6xxx-series alloy products and intended to circumvent the orders.[53]

B. Commercial Availability

Petitioner states that, at the time of the investigation, series 5050 alloy existed but was associated with rolling applications, rather than extrusions.[54] Furthermore, Petitioner states that heat-treated 5050 alloy extrusions are not recognized by The Aluminum Association for the purposes of aluminum extrusions.[55] Additionally, Petitioner adds that The Aluminum Association did not recognize heat-treating series 5050 alloys at the time of the Petition, and still does not recognize doing so to the present day.[56] Thus, Petitioner argues that extruded aluminum products meeting the chemical specifications for 5050-grade aluminum alloy and which are heat-treated were not commercially available at the time of the investigations; they were developed and made available after the publication of the *Orders.*

Conclusion

Based on the information provided by Petitioner, the Department finds there is sufficient basis to initiate an anti-circumvention inquiry, pursuant to sections 781(c) and 781(d) of the Act. The Department will determine whether the merchandise subject to the inquiry (identified in the ''Merchandise Subject to the Anti-Circumvention Inquiry'' section above) involves either a minor alteration to subject merchandise in such minor respects that it should be subject to the *Orders,* and/or represents a later-developed product that can be considered subject to the *Orders.*

The Department will not order the suspension of liquidation of entries of any additional merchandise at this time. However, in accordance with 19 CFR 351.225(l)(2), if the Department issues a preliminary affirmative determination, we will then instruct U.S. Customs and Border Protection to suspend liquidation and require a cash deposit of estimated duties, at the applicable rate, for each unliquidated entry of the merchandise at issue, entered or withdrawn from warehouse for consumption on or after the date of initiation of the inquiry.

In the event we issue a preliminary affirmative determination of circumvention pursuant to section 781(d) of the act (later-developed merchandise), we intend to notify the International Trade Commission, in accordance with section 781(e)(1) of the Act and 19 CFR 351.225(f)(7)(i)(C), if applicable.

[42] *See* Petitioner's Resubmission of Circumvention Inquiry at 54–55.

[43] *Id.* at 60–62.

[44] *Id.* at 60.

[45] *Id.* at 60–61 and Exhibit 19.

[46] *Id.* at 61, Exhibit 22.

[47] *Id.* at 61, Exhibit 30.

[48] *Id.* at 61.

[49] *Id.* at 61, Exhibit 8.

[50] *Id.* at 61–62.

[51] *Id.* at 62 and Exhibit 19.

[52] *Id.* at 62.

[53] *Id.*

[54] *Id.* at 54.

[55] *See* Petitioner's Resubmission of Circumvention Inquiry at 54.

[56] *Id.* at 54, Exhibit 21, and Exhibit 27.

The Department will, following consultation with interested parties, establish a schedule for questionnaires and comments on the issues. The Department intends to issue its final determination within 300 days of this initiation, in accordance with section 781(f) of the Act.

This notice is published in accordance with sections 781(c) and 781(d) of the Act and 19 CFR 351.225(i) and (j).

Dated: March 14, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–06299 Filed 3–18–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) and its advisory entities will hold public meetings.

DATES: The Pacific Council and its advisory entities will meet April 8–14, 2016. The Pacific Council meeting will begin on Saturday, April 9, 2016 at 8 a.m., reconvening each day through Thursday, April 14, 2016. All meetings are open to the public, except a closed session will be held at 3 p.m. on Saturday, April 9 to address litigation and personnel matters. The Pacific Council will meet as late as necessary each day to complete its scheduled business.

ADDRESSES: Meetings of the Council and its advisory entities will be held at the Hilton Vancouver Hotel, 301 West Sixth Street, Vancouver, WA 98660; telephone 360–993–4500; and the Heathman Lodge, 7801 NE. Greenwood Drive, Vancouver, WA 98662; phone: (360) 254–3100.

Council address: Pacific Fishery Management Council, 7700 NE. Ambassador Place, Suite 101, Portland, OR 97220. Instructions for attending the meeting via live stream broadcast are given under **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT: Dr. Donald O. McIsaac, Executive Director; telephone: (503) 820–2280 or (866) 806–7204 toll free; or access the Pacific Council Web site, *http://www.pcouncil.org* for the current meeting location, proposed agenda, and meeting briefing materials.

SUPPLEMENTARY INFORMATION: The April 9–14, 2016 meeting of the Pacific Council will be streamed live on the Internet. The broadcasts begin at 8 a.m. Pacific Time (PT) Saturday, April 9, 2016 and continue daily through Thursday, April 14, 2016. Broadcasts end daily at 6 p.m. PT or when business for the day is complete. Only the audio portion and presentations displayed on the screen at the Pacific Council meeting will be broadcast. The audio portion is listen-only; you will be unable to speak to the Pacific Council via the broadcast. To access the meeting online please use the following link: *http://www.gotomeeting.com/online/webinar/join-webinar* and enter the April Webinar ID, 105–442–547 and your email address. You can attend the webinar online using a computer, tablet, or smart phone, using the GoToMeeting application. It is recommended that you use a computer headset to listen to the meeting, but you may use your telephone for the audio portion only of the meeting. The audio portion may be attended using a telephone by dialing the toll number 1–646–307–1720 (not a toll-free number), audio access code 391–457–815, and enter the audio pin shown after joining the webinar.

The following items are on the Pacific Council agenda, but not necessarily in this order. Agenda items noted as ''(Final Action)'' refer to actions requiring the Council to transmit a proposed fishery management plan, proposed plan amendment, or proposed regulations to the Secretary of Commerce, under Sections 304 or 305 of the Magnuson-Stevens Fishery Conservation and Management Act. Additional detail on agenda items, Council action, advisory entity meeting times, and meeting rooms are described in Agenda Item A.4, Proposed Council Meeting Agenda, and will be in the advance April 2016 briefing materials and posted on the Council Web site at *www.pcouncil.org.*

A. Call to Order
1. Opening Remarks
2. Roll Call
3. Executive Director's Report
4. Approve Agenda

B. Open Comment Period
1. Comments on Non-Agenda Items

C. Administrative Matters
1. Marine Planning Update
2. Comments on Bycatch Strategy and Bycatch Reduction Plans
3. Catch Share Program Review: Comments on National Guidance and Preliminary Plan for West Coast Trawl Catch Share Program Review
4. Legislative Matters
5. Electronic Technology Plan Update
6. Membership Appointments and Council Operating Procedures
7. Future Council Meeting Agenda and Workload Planning

D. Enforcement Issues
1. Annual U.S. Coast Guard Fishery Enforcement Plan
2. Final Action on Regulations for Vessel Movement Monitoring

E. Salmon Management
1. Tentative Adoption of 2016 Ocean Salmon Management
2. Methodology Review Preliminary Topic Selection
3. Clarify Council Direction on 2016 Management Measures
4. Final Action on 2016 Salmon Management Measures
5. Annual Management Schedule Changes Amendment Scoping

F. Groundfish Management
1. National Marine Fisheries Service Report
2. Final Action to Implement the 2016 Pacific Whiting Fishery Under the U.S.-Canada Pacific Whiting Fishery
3. Final Action to Adopt Biennial Specifications for 2017–18 Fisheries
4. Final Action to Adopt Fixed Gear Electronic Monitoring Alternative and Deem Whiting and Fixed Gear Electronic Monitoring Regulations
5. Groundfish Essential Fish Habitat (EFH) and Rockfish Conservation Area Amendment
6. Preliminary Preferred Management Measures Alternatives for 2017–18 Fisheries
7. Initial Stock Assessment Plans and Terms of Reference for Groundfish and Coastal Pelagic Species
8. Inseason Adjustments (Final Action)

G. Habitat
1. Current Habitat Issues

H. Coastal Pelagic Species Management
1. Final Action on Sardine Assessment, Specifications, and Management Measures

I. Pacific Halibut Management
1. Final Incidental Landing Restrictions for 2016–17 Salmon Troll Fishery (Final Action)

Advisory Body Agendas

Advisory body agendas will include discussions of relevant issues that are on the Council agenda for this meeting, and may also include issues that may be relevant to future Council meetings. Proposed advisory body agendas for this meeting will be available on the Council

Web site *http://www.pcouncil.org/council-operations/council-meetings/current-briefing-book/* no later than Tuesday, March 29, 2016.

Schedule of Ancillary Meetings

Day 1—Friday, April 8, 2016

Groundfish Electronic Monitoring Policy Advisory Committee and Groundfish Electronic Monitoring Technical Advisory Committee 8 a.m.
Groundfish Management Team 8 a.m.
Salmon Advisory Subpanel 8 a.m.
Salmon Technical Team 8 a.m.
Habitat Committee (Heathman Lodge; 7801 NE. Greenwood Dr., Vancouver, WA 98662) 9 a.m.
Model Evaluation Workgroup 10 a.m.
Budget Committee 1 p.m.
Legislative Committee 2 p.m.
Tribal Policy Group 7 p.m.
Tribal and Washington Technical Group Ad Hoc

Day 2—Saturday, April 9, 2016

California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Coastal Pelagic Species Advisory Subpanel 8 a.m.
Coastal Pelagic Species Management Team 8 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.
Salmon Advisory Subpanel 8 a.m.
Salmon Technical Team 8 a.m.
Scientific and Statistical Committees 8 a.m.
Habitat Committee (Heathman Lodge; 7801 NE. Greenwood Dr., Vancouver, WA 98662) 9 a.m.
Enforcement Consultants 3 p.m.
Tribal Policy Group Ad hoc
Tribal and Washington Technical Group Ad hoc

Day 3—Sunday, April 10, 2016

California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Coastal Pelagic Species Advisory Subpanel 8 a.m.
Coastal Pelagic Species Management Team 8 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.
Salmon Advisory Subpanel 8 a.m.
Salmon Technical Team 8 a.m.
Enforcement Consultants Ad hoc
Tribal Policy Group Ad hoc
Tribal and Washington Technical Group Ad hoc

Day 4—Monday, April 11, 2016

California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.
Salmon Advisory Subpanel 8 a.m.
Salmon Technical Team 8 a.m.
Enforcement Consultants Ad hoc
Tribal Policy Group Ad hoc
Tribal and Washington Technical Group Ad hoc

Day 5—Tuesday, April 12, 2016

California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.
Salmon Advisory Subpanel 8 a.m.
Salmon Technical Team 8 a.m.
Enforcement Consultants Ad hoc
Tribal Policy Group Ad hoc
Tribal and Washington Technical Group Ad hoc

Day 6—Wednesday, April 13, 2016

California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.
Salmon Technical Team 8 a.m.
Enforcement Consultants Ad hoc
Tribal Policy Group Ad hoc
Tribal and Washington Technical Group Ad hoc

Day 7—Thursday, April 14, 2016

California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kris Kleinschmidt at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: March 16, 2016.

Tracey L. Thompson,

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

[FR Doc. 2016–06282 Filed 3–18–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE508

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will meet in Anchorage, AK.

DATES: The meetings will be held April 4, 2016 through April 12, 2016. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held at the Anchorage Hilton Hotel, 500 W. 3rd Ave., Anchorage, AK 99501. The Ecosystem Committee will meet in the Old Federal Bldg., 605 W. 4th Ave., Room 205, Anchorage, AK 99501.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252; telephone: (907) 271–2809.

FOR FURTHER INFORMATION CONTACT: David Witherell, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: The Council will begin its plenary session at 8 a.m. in the Aleutian Room on Wednesday, April 6, continuing through Tuesday, April 12, 2016. The Scientific and Statistical Committee (SSC) will begin at 8 a.m. in the King Salmon/Iliamna Room on Monday, April 4 and continue through Wednesday, April 6, 2016. The Council's Advisory Panel (AP) will begin at 8 a.m. in the Dillingham/Katmai Room on Tuesday, April 5, and continue through Saturday April 9, 2016. The Recreational Quota Entity Committee (RQE) will meet on Tuesday, April 5, 2016 (room and time to be determined). The Ecosystem Committee will meet on Monday, April 4, 2016, from 9:30 a.m. to 5 p.m. The Legislative Committee will tentatively meet on Tuesday, April 5, 2016 (room and time to be determined). The Halibut Management Committee will tentatively meet on Monday, April 4, 2016, from 1 p.m. to 5 p.m. (room to be determined).

Agenda

Monday, April 4, 2016 Through Tuesday, April 12, 2016

Council Plenary Session: The agenda for the Council's plenary session will include the following issues. The

Council may take appropriate action on any of the issues identified.

1. Executive Director's Report
2. NMFS Management Report (including report on fishery overlap with Pribilof corals)
3. ADF&G Report
4. USCG Report
5. USFWS Report
6. Protected Species Report
7. NIOSH Report
8. Scallop SAFE and catch limits: Plan team report; set OFL/ABC limits
9. Co-op reports (AFA, AM 80, GOA Rockfish, BSAI Crab including PNCIAC report)
10. Pollock ICA/IPA reports and SeaShare update (T)
11. Salmon genetics data update and spatial/temporal refinement: Discussion paper
12. AI groundfish offshore sector: Discussion paper on limited access and Pacific cod A/B season split
13. BSAI Halibut Abundance-Based PSC Limit: Discussion paper
14. Halibut DMR methodology: Discussion paper
15. Halibut Management: Receive Committee report; update on Framework; update on MSE process (MSE Council only)
16. Charter Halibut RQE: Initial Review
17. EFH 5-Year Review: Review Draft Report; Ecosystem Committee report
18. Groundfish Policy and Workplan: Review management objectives
19. Staff Tasking

The Advisory Panel will address most of the same agenda issues as the Council except B reports.

The SSC agenda will include the following issues:

1. Scallop SAFE and catch limits: Plan team report; set OFL/ABC limits
2. BSAI Halibut Abundance-Based PSC Limit: Discussion paper
3. Halibut DMR methodology: Discussion paper
4. Charter Halibut RQE: Initial Review
5. EFH 5-Year Review: Review Draft Report; Ecosystem Committee report
6. Salmon genetics data update and spatial/temporal refinement: Discussion paper

In addition to providing ongoing scientific advice for fishery management decisions, the SSC functions as the Council's primary peer review panel for scientific information as described by the Magnuson-Stevens Act section 302(g)(1)(e), and the National Standard 2 guidelines (78 FR 43066). The peer review process is also deemed to satisfy the requirements of the Information Quality Act, including the OMB Peer Review Bulletin guidelines.

The Agenda is subject to change, and the latest version will be posted at *http://www.npfmc.org/.*

Although non-emergency issues not contained in this agenda may come before these groups for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shannon Gleason at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: March 15, 2016.

Jeffrey N. Lonergan,

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

[FR Doc. 2016–06217 Filed 3–18–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE513

Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

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

ACTION: Notice of a public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Atlantic Mackerel, Squid, and Butterfish Advisory Panel and the Council's River Herring and Shad Advisory Panel will hold a public meeting.

DATES: The meeting will be held Wednesday, April 6, 2016, from 1:30 p.m. until 4:30 p.m.

ADDRESSES: The meeting will be held via webinar with a telephone-only connection option.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D. Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255. The Council's Web site, *www.mafmc.org* also has details on the proposed agenda, webinar access, and briefing materials.

SUPPLEMENTARY INFORMATION: This meeting will gather input on the Industry-Funded Monitoring Omnibus Amendment, especially the options for additional coverage for the Atlantic mackerel fishery. The Council plans to approve preliminary preferred alternatives at its April 2016 meeting, followed by public hearings in May 2016, and final action in June 2016. See *http://www.mafmc.org/actions/observer-funding-omnibus* for details on the Amendment.

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: March 16, 2016.

Tracey L. Thompson,

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

[FR Doc. 2016–06281 Filed 3–18–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE510

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Groundfish Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Thursday, April 7, 2016 at 9 a.m.

ADDRESSES: The meeting will be held at the Hilton Garden Inn, 100 Boardman Street, Boston, MA 02128; phone: (617) 567–6789; fax: (617) 461–0798.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The committee plans to discuss the groundfish monitoring program and will discuss PDT analysis with respect to the groundfish monitoring program, to assess whether: CV requirements and methodologies are the most appropriate to verify area fished, catch and discards by species and gear type for the sector system, and; ASM provides the sector fishery, recognizing heterogeneity within the fleet (*e.g.,* trip length, homeport, etc.), the maximum flexibility to meet ASM goals and objectives. They will also develop committee recommendations to the Council on the possible alternatives for a monitoring action. The committee also plans to discuss windowpane flounder management alternatives and will receive an update on the development of a Council staff white paper examining the windowpane flounder issue. They will also develop committee recommendations on next steps for the white paper. The committee will discuss the recreational management measures process and receive an update on the development of a Council staff white paper examining the recreational management measures process issue. They will also develop committee recommendations on next steps for the white paper. Other business will be discussed as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: March 16, 2016.

Tracey L. Thompson,

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

[FR Doc. 2016–06280 Filed 3–18–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE251

Takes of Marine Mammals Incidental To Specified Activities; Taking Marine Mammals Incidental To Implementation of a Test Pile Program in Anchorage, Alaska

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that we have issued an incidental harassment authorization (IHA) to the Municipality of Anchorage (MOA) Port of Anchorage (POA) to incidentally harass four species of marine mammals during activities related to the implementation of a Test Pile Program, including geotechnical characterization of pile driving sites, near its existing facility in Anchorage, Alaska.

DATES: This authorization is effective from April 1, 2016, through March 31, 2017.

FOR FURTHER INFORMATION CONTACT: Robert Pauline, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Availability

An electronic copy of POA's application and supporting documents, as well as a list of the references cited in this document, may be obtained by visiting the Internet at: *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* In case of problems accessing these documents, please call the contact listed above (see **FOR FURTHER INFORMATION CONTACT**).

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

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.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the U.S. can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) establishes a 45-day time limit for NMFS' review of an application followed by a 30-day public notice and comment period on any proposed authorization for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization. Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as ''any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].''

Summary of Request

On February 15, 2015, NMFS received an application from POA for the taking of marine mammals incidental to conducting a Test Pile Program as part of the Anchorage Port Modernization Project (APMP). POA submitted a revised application on November 23, 2015. NMFS determined that the application was adequate and complete on November 30, 2015. POA proposes to

install a total of 10 test piles as part of a Test Pile Program to support the design of the Anchorage Port Modernization Project (APMP) in Anchorage, Alaska. The Test Pile Program will also be integrated with a hydroacoustic monitoring program to obtain data that can be used to evaluate potential environmental impacts and meet future permit requirements. All pile driving is expected to be completed by July 1, 2016. However, to accommodate unexpected project delays and other unforeseeable circumstances, the requested and proposed IHA period for the Test Pile Program is for the 1-year period from April 1, 2016, to March 31, 2017. Subsequent incidental take authorizations will be required to cover pile driving under actual construction associated with the APMP.

The use of vibratory and impact pile driving is expected to produce underwater sound at levels that have the potential to result in behavioral harassment of marine mammals. Species with the expected potential to be present during the project timeframe include harbor seals (*Phoca vitulina*), Cook Inlet beluga whales (*Delphinapterus leucas*), and harbor porpoises (*Phocoena phocoena*). Species that may be encountered infrequently or rarely within the project area are killer whales (*Orcinus orca*) and Steller sea lions (*Eumetopias jubatus*).

Description of the Specified Activity

Overview

We provided a description of the proposed action in our **Federal Register** notice announcing the proposed authorization (80 FR 78176; December 16, 2015). Please refer to that document; we provide only summary information here.

The POA is modernizing its facilities through the APMP. Located within the MOA on Knik Arm in upper Cook Inlet (See Figure 1–1 in the Application), the existing 129-acre Port facility is currently operating at or above sustainable practicable capacity for the various types of cargo handled at the facility. The existing infrastructure and support facilities were largely constructed in the 1960s. They are substantially past their design life, have degraded to levels of marginal safety, and are in many cases functionally obsolete, especially in regards to seismic design criteria and condition. The APMP will include construction of new pile-supported wharves and trestles to the south and west of the existing terminals, with a planned design life of 75 years.

An initial step in the APMP is implementation of a Test Pile Program, the specified activity for this IHA. The POA proposes to install a total of 10 test piles at the POA as part of a Test Pile Program to support the design of the APMP. The Test Pile Program will also be integrated with a hydroacoustic monitoring program to obtain data that can be used to evaluate potential environmental impacts and meet future permit requirements. Proposed Test Pile Program activities with potential to affect marine mammals within the waterways adjacent to the POA include vibratory and impact pile-driving operations in the project area.

Dates and Duration

In-water work associated with the APMP Test Pile Program will begin no sooner than April 1, 2016, and will be completed no later than March 31, 2017 (1 year following IHA issuance), but is expected to be completed by July 1, 2016. Pile driving is expected to take place over 25 days and include 5 hours of vibratory driving and 17 hours of impact driving as is shown in Table 1. A 25 percent contingency has been added to account for delays due to weather or marine mammal shut-downs resulting in an estimated 6 hours of vibratory driving and 21 hours of impact driving over 31 days of installation. Restriking of some of the piles will occur two to three weeks following installation. Approximately 25 percent of pile driving will be conducted via vibratory installation, while the remaining 75 percent of pile driving will be conducted with impact hammers. Although each indicator pile test can be conducted in less than 2 hours, mobilization and setup of the barge at the test site will require 1 to 2 days per location and could be longer depending on terminal use. Additional time will be required for installation of sound attenuation measures, and for subsequent noise-mitigation monitoring. Hydroacoustic monitoring and installation of resonance-based systems or bubble curtains will likely increase the time required to install specific indicator pile from a few hours to a day or more.

Within any day, the number of hours of pile driving will vary, but will generally be low. The number of hours required to set a pile initially using vibratory methods is about 30 minutes per pile, and the number of hours of impact driving per pile is about 1.5 hours. Vibratory driving for each test pile will occur on ten separate days. Impact driving could occur on any of the 31 days depending on a number of factors including weather delays and unanticipated scheduling issues. On some days, pile driving may occur only for an hour or less as bubble curtains and the containment frames are set up and implemented, resonance-based systems are installed, hydrophones are placed, pipe segments are welded, and other logistical requirements are handled.

TABLE 1—CONCEPTUAL PROJECT SCHEDULE FOR TEST PILE DRIVING, INCLUDING ESTIMATED NUMBER OF HOURS AND DAYS FOR PILE DRIVING

Month	Pile type	Pile diameter	Number of piles	Number of hours, vibratory driving	Number of hours, impact driving	Number of days of pile driving	Number of days of restrikes	Total number of days of pile driving
April–July 2016	Steel pipe	48″ OD	10	5	17	21	4	25.
				+ 25% contingency =				
				6 hours	21 hours	26 days	5 days	31 days.

Notes: OD—outside diameter.

Specific Geographic Region

The Municipality of Anchorage (MOA) is located in the lower reaches of Knik Arm of upper Cook Inlet. The POA sits in the industrial waterfront of Anchorage, just south of Cairn Point and north of Ship Creek (Latitude 61°15′ N., Longitude 149°52′ W.; Seward Meridian). Knik Arm and Turnagain Arm are the two branches of upper Cook Inlet and Anchorage is located where

the two Arms join (Figure 2–1 in the Application).

Comments and Responses

A notice of NMFS' proposal to issue an IHA was published in the **Federal Register** on December 16, 2015 (80 FR 78176). During the 30-day public comment period, the Marine Mammal Commission (Commission) and Friends of Animals (FoA) each submitted letters. The Center for Biological Diversity (CBD) and The Humane Society of the U.S. (HSUS) submitted comments jointly. The letters are available at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* NMFS' responses to submitted comments are contained below.

Comment 1: The Commission, FoA, and CBD/HSUS recommended that NMFS defer issuance of incidental take authorizations and regulations until it has better information on the cause or causes of the ongoing decline of beluga whales and has a reasonable basis for determining that authorizing takes by behavioral harassment would not contribute to further decline.

Response: In accordance with our implementing regulations at 50 CFR 216.104(c), NMFS uses the best available scientific information to determine whether the taking by the specified activity within the specified geographic region will have a negligible impact on the species or stock and will not have an unmitigable adverse impact on the availability of such species or stock for subsistence uses. Based on currently available scientific evidence, NMFS determined that the impacts of the Test Pile Program would meet these standards. Moreover, POA proposed and NMFS required a comprehensive mitigation plan to reduce impacts to Cook Inlet beluga whales and other marine mammals to the lowest level practicable.

Our analysis utilizing best available information indicates that issuance of this IHA is not expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival. The ESA Biological Opinion determined that the issuance of an IHA is not likely to jeopardize the continued existence of the Cook Inlet beluga whales or destroy or adversely modify Cook Inlet beluga whale critical habitat. Based on the analysis of potential effects and the conservative mitigation and monitoring program, NMFS determined that the activity would have a negligible impact on the population.

As additional research is conducted to determine the impact of various stressors on the Cook Inlet beluga whale population, NMFS will incorporate any findings into future negligible impact analyses associated with incidental take authorizations.

Comment 2: The Commission recommended that NMFS develop a policy that sets forth clear criteria and/or thresholds for determining what constitutes small numbers and negligible impact for the purpose of authorizing incidental takes of marine mammals.

Response: NMFS is in the process of developing both a clearer policy to outline the criteria for determining what constitutes ''small numbers'' and constructing an improved analytical framework for determining whether an activity will have a ''negligible impact'' for the purpose of authorizing takes of marine mammals. We fully intend to engage the MMC in these processes at the appropriate time.

Comment 3: The Commission recommended that NMFS draft and finalize its programmatic environmental impact statement (PEIS) on the issuance of incidental take authorizations in Cook Inlet and establish annual limits on the total number and types of takes that are authorized for sound-producing activities in Cook Inlet. FoA wrote that NMFS should prepare an environmental impact statement before issuing any IHAs.

Response: NMFS published a **Federal Register** Notice of Intent to Prepare a programmatic EIS for Cook Inlet (79 FR 61616; October 14, 2014). We are continuing the process of developing the PEIS and will consider the potential authorization of take incidental to sound producing activities. The PEIS is meant to address hypothetical increasing future levels of activity in Cook Inlet which, cumulatively, may have a significant impact on the human environment. In the interim, NMFS is evaluating each activity individually, taking into consideration cumulative impacts, with an EA, to determine if the action under consideration can support a Finding of No Significant Impact (FONSI). For this IHA, NMFS determined that the Test Pile Program will not have a significant impact on the human environment, as specified in its FONSI.

Comment 4: The Commission recommended that NMFS adopt a consistent approach when determining the potential number of takes of beluga whales in Cook Inlet for future incidental take authorization applications regarding sound-producing activities.

Response: While NMFS strives for consistency where appropriate, it is important to note that there are a number of acceptable methodologies that can be employed to estimate take. Some methodologies may be more or less suitable depending upon the type, duration, and location of a given project. Furthermore, there may be available data that are applicable only within a localized area and not across the entirety of Cook Inlet. As such, NMFS makes determinations about the best available information, including the most appropriate methodologies to generate take estimates, on an action-specific basis.

Comment 5: The Commission recommended that NMFS require POA to implement delay and shut-down procedures if a single beluga or five or more harbor porpoises or killer whales are observed approaching or within the Level B harassment zones for impact and vibratory pile driving, as has been done under recent IHAs that involved the use of airguns and sub-bottom profilers for seismic surveys, or provide sufficient justification regarding why implementation of those procedures is not necessary for the proposed activities.

Response: NMFS, after engaging in consultation under section 7 of the ESA, has modified the Level B harassment shutdown requirement that was in the proposed IHA. Rather than shutdown for groups of five or more belugas or calves observed within or approaching the maximum potential Level B harassment zones (1,359 m and 3,981 m for impact and vibratory pile driving, respectively), the IHA will require a more stringent shutdown measure. POA must shut-down upon observation of a single beluga whale within or approaching the maximum potential Level B harassment zones when driving unattenuated piles, and within a modified zone when piles are driven using sound attenuation systems. See ''Mitigation'' for more details of this shutdown requirement.

As described in the notice of proposed authorization, NMFS will not require POA to shut down if five or more harbor porpoises or killer whales are observed approaching or within the Level B harassment zones for impact and vibratory pile driving. The assumed benefit of such a measure is not well understood, and shutting down during these rare occurrences risks seizing of the pile, in which the pile becomes stuck in the substrate. This may result in loss of 10% of the total data from the Test Pile Program and 100% of the data from the seized pile, which would greatly reduce the Program's usefulness. Depending on which pile seized it could represent complete data loss for a certain sound attenuation treatment

type (*i.e.* encapsulated bubble curtain and adBM resonance system). Since this data will be helpful to both POA and NMFS in the future to help assess impacts of future actions and inform development of mitigation that could have conservation value, NMFS does not want to risk losing this potentially valuable data.

Comment 6: FoA commented that NMFS is in violation of the Marine Mammal Protection Act (MMPA) since that FoA believes large numbers of beluga whales will be harassed and that significant non-negligible impacts to whales will occur. CBD/HSUS commented that the small numbers analysis and negligible impact determination were deficient.

Response: NMFS utilized the best available scientific evidence to determine whether the taking by the specified activity will have a negligible impact on the species or stock. NMFS determined that the impacts of the Test Pile Program would meet these standards. See the *Analysis and Determinations* section on *Negligible Impact Analysis* later in this Notice. Similarly, the Biological Opinion determined that the issuance of an IHA is not likely to jeopardize the continued existence of the Cook Inlet beluga whales or destroy or adversely modify Cook Inlet beluga whale critical habitat. Moreover, NMFS has required as part of the IHA a rigorous mitigation plan to reduce potential impacts to Cook Inlet beluga whales and other marine mammals to the lowest level practicable.

Finally, we determined the Test Pile Program would take only small numbers of marine mammals relative to their population sizes. The number of belugas likely to be taken represents less than ten percent of the population. Some of these takes may represent single individuals experiencing multiple takes. In addition to this quantitative evaluation, NMFS has also considered the seasonal distribution and habitat use patterns of Cook Inlet beluga whales and rigorous mitigation requirements to determine that the number of beluga whales likely to be taken is small. See the *Analyses and Determinations* section later in this document for more information about the negligible impact and small numbers determinations for beluga whales and other marine mammal species for which take has been authorized.

Comment 7: FoA and CBD/HSUS noted that the proposed activities would impact beluga habitat which is considered Type 1 or high value/high sensitivity habitat. FoA is also concerned that if pile driving is not completed by July of 2016, the project's activities could overlap with the time period with the largest annual beluga presence.

Response: The section on *Anticipated Effects on Habitat* found later in this notice describes in detail how the ensonified area during the Test Pile Program represents less than 1% of designated critical habitat in Area 1. Furthermore, the POA and adjacent navigation channel were excluded from critical habitat designation due to national security reasons (76 FR 20180, April 11, 2011).

Although POA has requested that a one-year authorization period running from April 1, 2016 through March 31, 2017, POA intends to complete all Test Pile Program activities prior to July 1, 2016. If the Program extends beyond that date, note that NMFS' analysis and determination of authorized take levels are conservative in that they are based on the density of beluga whales during the summer months when concentrations are higher. Even though POA plans to start in spring and finish early summer, should pile driving extend past July 1, the take estimates presented here would likely be conservative. Therefore, continuation of planned pile driving beyond July 1, 2016 would not affect our determinations.

Comment 8: NMFS stated that no apparent behavioral changes have been observed when belugas were sighted near construction activities including pile driving and dredging in Cook Inlet. As such, CBD/HSUS urged NMFS to obtain data on behavioral modifications in order to properly conduct its negligible impact determination. Furthermore, FoA noted that any effects may not always be visible to the naked eye or visible at all (*e.g.*, internal injury). FoA stated that NMFS has not adequately accounted for the high mobility of beluga whales or unpredictability of being able to adequately observe these animals when the agency evaluated POA's request for an IHA and its mitigation and monitoring measures. FoA recommends that NMFS should do so before proceeding in making its decision.

Response: Available data describing behavioral impacts associated with marine noise is limited in several ways according to Southall *et al.* 2007. Insufficient data exist to support criteria other than those based on SPL alone, and this metric fails to account for the duration of exposure beyond the difference between pulse and non-pulse sounds. Additionally, there is much variability in responses among species of the same functional hearing group and also within species. Because of the influences of numerous variables, behavioral responses are difficult to predict given present information. Furthermore, any biological significance of an observed behavioral response is extremely difficult to assess (NRC, 2005). Additional research is needed to quantify behavioral reactions of a greater number of free-ranging marine mammal species to specific exposures from different human sound sources. This is an area of increasing interest and as new data becomes available NMFS will incorporate this information into future assessments.

NMFS also understands that observing every beluga whale that enters into the zones of influence may not be possible given the large size of the maximum potential vibratory pile driving Level B harassment zone (3,981 m). However, piles driven using sound attenuation systems are expected to have much smaller Level B harassment zones (approximately 300–900 m; see ''Mitigation'' for further detail). Additionally, POA will employ a robust monitoring program which will include marine mammal observers (MMOs) in an elevated platform and personnel on hydroacoustic monitoring vessels. MMOs will have been trained in identifying changes in behavior that may occur due to exposure to pile driving activities. Furthermore, Level A harassment (injury) is not anticipated to occur due to the shutdown protocols required of POA. Given this information NMFS is confident POA can reliably monitor beluga whales in the zones of influence and identify and record behavioral impacts.

Comment 9: FoA noted that anthropogenic noises can result in masking hindering the ability of whales to communicate. FoA also noted that anthropogenic activities can result in noise that can provoke temporary threshold shift (TTS) or permanent threshold shift (PTS) while NMFS stated in the proposed authorization that no marine mammals have been shown to experience TTS or PTS as a result of pile driving activities.

Response: NMFS acknowledged in the proposed **Federal Register** notice that masking may occur due to anthropogenic sounds occurring in frequency ranges utilized by beluga whales. NMFS, however, believes that the short-term duration and limited affected area would not result in significant impacts from masking. NMFS wrote that although no marine mammals have been shown to experience TTS or PTS as a result of being exposed to pile driving activities, captive bottlenose dolphins and beluga

whales exhibited changes in behavior when exposed to strong pulsed sounds (Finneran *et al.,* 2000, 2002, 2005). The animals tolerated high received levels of sound before exhibiting aversive behaviors. Experiments on a beluga whale showed that exposure to a single watergun impulse at a received level of 207 kPa (30 psi), which is equivalent to 228 dB, resulted in a 7 and 6 dB TTS in the beluga whale at 0.4 and 30 kHz, respectively. Thresholds returned to within 2 dB of the pre-exposure level within four minutes of the exposure (Finneran *et al.,* 2002). Although the source level of pile driving from one hammer strike is expected to be much lower than the single watergun impulse cited here, animals exposed for a prolonged period to repeated hammer strikes could receive more sound exposure in terms of SEL than from the single watergun impulse (estimated at 188 dB re 1 μPa^2-s) in the aforementioned experiment (Finneran *et al.,* 2002). However, in order for marine mammals to experience TTS or PTS, the animals have to be close enough to be exposed to high intensity sound levels for a prolonged period of time. Based on the best scientific information available, NMFS finds that with mitigation protocols in place, including a 100 meter shut-down zone, sound pressure levels (SPLs) that marine mammals might reasonably be anticipated to experience as part of the Test Pile Program are below the thresholds that could result in TTS or the onset of PTS.

Comment 10: FoA noted that NMFS did not evaluate cumulative impacts as part of its analysis. CBD/HSUS also urged NMFS to conduct an analysis of cumulative effects of construction and operation of the Anchorage Port Modernization Project (APMP).

Response: Neither the MMPA nor NMFS' implementing regulations specify how to consider other activities and their impacts on the same populations when conducting a negligible impact analysis. However, 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 the negligible impact analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the density/distribution and status of the species, population size and growth rate, and ambient noise).

In addition, cumulative effects were addressed in the EA and Biological Opinion prepared for this action. The APMP is specifically considered in the cumulative effects section of the EA. These documents, as well as the Alaska Marine Stock Assessments and the most recent abundance estimate for Cook Inlet beluga whales (Shelden *et al.,* 2015) are part of NMFS' Administrative Record for this action, and provided the decision maker with information regarding other activities in the action area that affect marine mammals, an analysis of cumulative impacts, and other information relevant to the determination made under the MMPA.

Comment 11: FoA commented that issuing the IHA would violate the Endangered Species Act as a permit (IHA) cannot be issued if taking will appreciably reduce the likelihood of survival and recovery of the species in the wild. Additionally, FoA believes that mitigation of noise and other impacts do not go far enough to fully protect the Cook Inlet beluga whales from the many threats facing them.

Response: NMFS' Biological Opinion concluded that the issuance of an IHA is not likely to jeopardize the continued existence of the Cook Inlet beluga whales or destroy or adversely modify Cook Inlet beluga whale critical habitat. NMFS has revised its IHA requirements to require shutdown upon observation of one beluga whale within or approaching the area expected to contain sound exceeding NMFS' criteria for Level B harassment. See response to comment #8. NMFS acknowledges the difficulties of monitoring in the field, particularly at long distances. However, NMFS believes the required mitigation and related monitoring satisfy the requirements of the MMPA.

Comment 12: FoA stated that issuing the IHA would violate NEPA as NMFS did not prepare an EIS.

Response: The purpose of an EA is to evaluate the environmental impacts of an action and determine if a proposed action or its alternatives have potentially significant environmental effects. The EA process concludes with either a Finding of No Significant Impact or a determination to prepare an Environmental Impact Statement. NMFS issued a Finding of No Significant Impact (FONSI) detailing the reasons why the agency has determined that the action will have no significant impacts.

Comment 13: FoA commented that NMFS must include a discussion of ethics and the rights of wildlife when assessing the potential harassment of marine life.

Response: NMFS' does not have authority under section 101(a)(5)(D) of the MMPA to consider these issues in making a decision. As enacted by Congress, our only authority under that provision is to evaluate the specified activity to determine if it will have a negligible impact on the affected species or stocks and no unmitigable adverse impact on marine mammal availability for relevant subsistence uses. If those standards are met and the expected take is limited to small numbers of marine mammals, NMFS must issue an IHA that contains the required mitigation, monitoring, and reporting requirements.

Comment 14: CBD/HSUS recommended that NMFS issue and finalize a draft recovery plan as is required under the Endangered Species Act (ESA) and not issue an IHA until this has occurred.

Response: The Cook Inlet Beluga Whale Recovery Plan is currently under development and NMFS is working towards its completion. A final recovery plan is not required for issuance of the IHA.

Comment 15: CBD/HSUS urged NMFS not to issue an IHA until the agency adopts a comprehensive monitoring plan.

Response: The commenter did not explain what it meant by ''comprehensive monitoring plan.'' However, NMFS has conducted aerial monitoring surveys of beluga whales in Cook Inlet on an annual basis since 1993 and this monitoring is likely to continue in the foreseeable future. Furthermore, an important component of the Draft Cook Inlet Beluga Whale Recovery Plan includes comprehensive population monitoring. Under the draft recovery plan, NMFS would continue to conduct aerial and photo-identification surveys to estimate abundance, and analyze population trends, calving rates, and distribution.

Comment 16: CBD/HSUS argue that NMFS improperly estimated take by using data from only summer months when the IHA is authorized for a one-year period. CBD/HSUS also allege that NMFS underestimated the size of the group factor which was included in the final take estimation.

Response: The predictive beluga habitat model described in Goetz *et al.* 2012 was used by POA and NMFS to estimate density. This is considered to be the best information available, and incorporates National Marine Mammal Laboratory data collected during the months of June and July between 1994 and 2008. There is no data of similar quality available for the spring and early summer time frame. The authorized take estimates for the Test Pile Program were based on the assumption that pile-driving operations would take place between April 1 and July 1, 2016 and that beluga density outside the June-July period would be lower. Therefore, NMFS considers the use of the Goetz *et al.* 2012 summer data to estimate take

for the April 1 through July 1 period to be conservative and appropriate.

The section on *Estimated Take by Incidental Harassment* later in this document explains why the density data used for estimating potential beluga exposures does not fully reflect the nature of local beluga occurrence and also provides a statistically defensible justification for the size of the large group factor which was selected by NMFS. Note that while larger groups of beluga whales have frequently been observed in Cook Inlet, NMFS' finding is based on groups that were actually observed near POA.

Comment 17: CBD/HSUS stated that it is inappropriate for NMFS to use the current, outdated, generic sound thresholds of 180 dB and 160/120dB levels (impact/non-impact) as thresholds for Level A and Level B harassment when it has already developed a more appropriate method. As such, the agency should not issue IHAs until it has completed its revision of acoustic thresholds for Level B take.

Response: NMFS currently uses 160 dB root mean square (rms) as the exposure level for estimating Level B harassment takes from impulse sounds for most species in most cases. This threshold was established for underwater impulse sound sources based on measured avoidance responses observed in whales in the wild. Specifically, the 160 dB threshold was derived from data for mother-calf pairs of migrating gray whales (Malme *et al.,* 1983, 1984) and bowhead whales (Richardson *et al.,* 1985, 1986) responding to seismic airguns (*e.g.,* impulsive sound source). We acknowledge there is more recent information bearing on behavioral reactions to seismic airguns, but those data only illustrate how complex and context-dependent the relationship is between the two. The 120 dB re 1μPa (rms) threshold for noise originates from research on baleen whales, specifically migrating gray whales (Malme *et al.* 1984; predicted 50% probability of avoidance) and bowhead whales reacting when exposed to industrial (*i.e.,* drilling and dredging) activities (non-impulsive sound source) (Richardson *et al.* 1990). NMFS is working to develop guidance to help determine Level B harassment thresholds. Note, however, it is not a matter of merely replacing the existing threshold with a new one. Due to the complexity of the task, any guidance will require a rigorous review that includes internal agency review, public notice and comment, and additional external peer review before any final product is published. In the meantime, and taking into consideration the facts and available science, NMFS determined it is reasonable to use the 160 dB threshold for impact sources for estimating takes of marine mammals in Cook Inlet by Level B harassment and the 120 dB threshold for vibratory sources.

With regard to injury, NMFS is developing *Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing.* Specifically, it will identify the received levels, or acoustic thresholds, above which individual marine mammals are predicted to experience changes in their hearing sensitivity (either temporary or permanent) for acute exposure to underwater anthropogenic sound sources. That Guidance is undergoing an extensive process involving peer review and public comment, and is expected to be finalized sometime in 2016. See 80 FR 45642 (July 31, 2015).

Description of Marine Mammals in the Area of the Specified Activity

There are five marine mammal species known to occur in the vicinity of the project area. These are the Cook Inlet beluga whale, killer whale, Steller sea lion, harbor porpoise, and harbor seal.

We reviewed POA's detailed species descriptions, including life history information, for accuracy and completeness and refer the reader to Section 3 of POA's application as well as our notice of proposed IHA published in the **Federal Register** (80 FR 78176; December 16, 2015) instead of reprinting the information here. Please also refer to NMFS' Web site (*www.nmfs.noaa.gov/pr/species/mammals*) for generalized species accounts which provide information regarding the biology and behavior of the marine resources that occur in the vicinity of the project area.

Table 2 lists marine mammal stocks that could occur in the vicinity of the project that may be subject to harassment and summarizes key information regarding stock status and abundance. Please see NMFS' Stock Assessment Reports (SAR), available at *www.nmfs.noaa.gov/pr/sars,* for more detailed accounts of these stocks' status and abundance.

TABLE 2—MARINE MAMMALS IN THE PROJECT AREA

Species or DPS *	Abundance	Comments
Cook Inlet beluga whale (*Delphinapterus leucas*).	312 [a]	Occurs in the project area. Listed as Depleted under the MMPA, Endangered under ESA.
Killer (Orca) whale (*Orcinus orca*)	2,347 Resident 587 Transient [b]	Occurs rarely in the project area. No special status or ESA listing.
Harbor porpoise (*Phocoena phocoena*).	31,046 [c]	Occurs occasionally in the project area. No special status or ESA listing.
Harbor seal (*Phoca vitulina*)	27,386 [d]	Occurs in the project area. No special status or ESA listing.
Steller sea lion (*Eumetopias jubatus*).	49,497 [e]	Occurs rarely within the project area. Listed as Depleted under the MMPA, Endangered under ESA.

* DPS refers to distinct population segment under the ESA, and is treated as a species.
[a] Abundance estimate for the Cook Inlet stock. Allen and Angliss, 2015; Shelden et al., 2015.
[b] Abundance estimate for the Eastern North Pacific Alaska Resident stock; the estimate for the transient population is for the Gulf of Alaska, Aleutian Islands, and Bering Sea stock.
[c] Abundance estimate for the Gulf of Alaska stock.
[d] Abundance estimate for the Cook Inlet/Shelikof stock.
[e] Abundance estimate for the Western U.S. Stock.
Sources for populations estimates other than Cook inlet beluga whales: Allen and Angliss 2013, 2014, 2015.

Potential Effects of the Specified Activity on Marine Mammals

The **Federal Register** notice of proposed authorization (80 FR 78176; December 16, 2015) provides a general background on sound relevant to the specified activity as well as a detailed description of marine mammal hearing and of the potential effects of these construction activities on marine mammals, and is not repeated here.

Anticipated Effects on Habitat

We described potential impacts to marine mammal habitat in detail in our **Federal Register** notice of proposed authorization. The proposed Test Pile Program will not result in permanent impacts to habitats used by marine mammals. Pile installation may temporarily increase turbidity resulting from suspended sediments. Any increases would be temporary, localized, and minimal. POA must comply with state water quality standards during these operations by limiting the extent of turbidity to the immediate project area. In general, turbidity associated with pile installation is localized to about a 25-foot radius around the pile (Everitt *et al.* 1980). Cetaceans are not expected to be close enough to the project site driving areas to experience effects of turbidity, and any pinnipeds will be transiting the terminal area and could avoid localized areas of turbidity. Therefore, the impact from increased turbidity levels is expected to be discountable to marine mammals. The proposed Test Pile Program will result in temporary changes in the acoustic environment. Marine mammals may experience a temporary loss of habitat because of temporarily elevated noise levels. The most likely impact to marine mammal habitat would be minor impacts to the immediate substrate during installation of piles during the proposed Test Pile Program. The Cook Inlet beluga whale is the only marine mammal species in the project area that has critical habitat designated in Cook Inlet. NMFS has characterized the relative value of four habitats as part of the management and recovery strategy in its Final Conservation Plan for the Cook Inlet beluga whale (NMFS 2008a). These are sites where beluga whales are most consistently observed, where feeding behavior has been documented, and where dense numbers of whales occur within a relatively confined area of the inlet. Type 1 Habitat is termed ''High Value/High Sensitivity'' and includes what NMFS believes to be the most important and sensitive areas of the Cook Inlet for beluga whales. Type 2 Habitat is termed ''High Value'' and includes summer feeding areas and winter habitats in waters where whales typically occur in lesser densities or in deeper waters. Type 3 Habitat occurs in the offshore areas of the mid and upper inlet and also includes wintering habitat. Type 4 Habitat describes the remaining portions of the range of these whales within Cook Inlet. The habitat that will be directly impacted from Test Pile activities at the POA is considered Type 2 Habitat, though excluded from the critical habitat designation due to national security considerations.

Note that the amount of critical habitat impacted by the Test Pile Program is relatively small. The POA is planning to install test piles at 6 locations arranged on a roughly north-south alignment. The maximum overlap with critical habitat to the north is 1,677 acres (6.79 sq. km; 2.62 sq. mi.), and the maximum overlap to the south is 2,113 acres (8.55 sq. km; 3.3 sq. mi.), depending on pile location. The two maxima will not occur at the same time because pile installation will only take place at one pile at a time; the northern-most maximum is for the northern-most pile, and the southern-most maximum is for the southern-most pile. As pile location changes, the ensonified area on one side decreases as it increases on the other side. Pile installation in the center of the north-south alignment will ensonify the smallest area of critical habitat. The area excluded due to national security was not included in these measurements. For all pile locations, the temporarily ensonified area represents less than 1% of designated critical habitat.

Beluga whales have been observed most often in the POA area at low tide in the fall, peaking in late August to early September (Markowitz and McGuire 2007; Cornick and Saxon-Kendall 2008). Although the POA scientific monitoring studies indicate that the area is not used frequently by many beluga whales, individuals and sometimes large groups of beluga whales have been observed passing through the area when traveling between lower and upper Knik Arm. Diving and traveling have been the most common behaviors observed, with instances of confirmed feeding. However, the most likely impact to marine mammal prey from the proposed Test Pile Program will be temporary avoidance of the immediate area. In general, the nearer the animal is to the source the higher the likelihood of high energy and a resultant effect (such as mild, moderate, mortal injury). Affected fish would represent only a small portion of food available to beluga whales in the area. The duration of fish avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution, and behavior is anticipated. Any behavioral avoidance by fish of the disturbed area will still leave significantly large areas of fish and marine mammal foraging habitat in Knik Arm. Therefore, impacts to beluga prey species are likely to be minor and temporary.

In summary, the long-term effects of any prey displacements are not expected to affect the overall fitness of the Cook Inlet beluga whale population or other affected species; effects will be minor and will terminate after cessation of the proposed Test Pile Program. Due to the short duration of the activities and the relatively small area of the habitat affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences for individual marine mammals or their populations, including Cook Inlet beluga whales.

Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, ''and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking'' for certain subsistence uses.

Measurements from similar pile driving events were utilized to estimate zones of influence (ZOI; see ''Estimated Take by Incidental Harassment''). ZOIs are often used to establish a mitigation zone around each pile (when deemed practicable) and to identify where Level A harassment to marine mammals may occur, and also provide estimates of the areas Level B harassment zones. ZOIs may vary between different diameter piles and types of installation methods. POA will employ the following mitigation measures, which were contained in the notice of proposed IHA with modifications as noted here:

(a) Conduct briefings between construction supervisors and crews, marine mammal monitoring team, and POA staff prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

(b) For in-water heavy machinery work other than pile driving (using, *e.g.,* standard barges, tug boats, barge-mounted excavators, or clamshell equipment used to place or remove material), if a marine mammal comes within 10 m, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions. This type of work could include the following activities: (1) movement of the barge to the pile location or (2) positioning of the pile on the substrate via a crane (*i.e.,* stabbing the pile).

Time Restrictions—Work would occur only during daylight hours, when visual monitoring of marine mammals can be conducted.

Establishment of Monitoring and Shutdown Zones—Monitoring zones (ZOIs) are the areas in which SPLs would be expected to equal or exceed 160 dB rms for impact driving and 125 dB rms for vibratory driving. Note that 125 dB has been established as the appropriate isopleth for Level B harassment zone associated with vibratory driving since ambient noise levels near the POA are likely to be above 120 dB rms and this value has been used previously as a threshold in this area. Note that POA's acoustic monitoring plan includes collection of data to verify the level of background noise in the vicinity of POA. Monitoring of these zones enables observers to be aware of and communicate the presence of marine mammals in the project area. The primary purpose of monitoring these zones is for documenting potential incidents of Level B harassment, although here we require more stringent measures associated with beluga whale occurrence in the monitoring zone (see shutdown zone, below). Nominal predicted radial distances for driving piles with and without the use of sound attenuation systems are shown in Table 3. The attenuated zones are calculated assuming 10 dB noise reduction provided by the encapsulated bubble system and adBM resonance system treatments (CalTrans, 2012; note that the resonance system is expected to provide greater attenuation than would the bubble system, making this a conservative assumption for use of that system). Test Pile Program results will provide more precise information on actual levels of attenuation attained. We discuss monitoring objectives and protocols in greater depth in ''Monitoring and Reporting.''

TABLE 3—DISTANCES IN METERS TO NMFS' LEVEL A (INJURY) AND LEVEL B HARASSMENT THRESHOLDS (ISOPLETHS) FOR UNATTENUATED AND ATTENUATED 48-INCH-DIAMETER PILE, ASSUMING A 125-dB BACKGROUND NOISE LEVEL

Pile diameter (inches)	Impact			Vibratory		
	Pinniped, Level A Injury	Cetacean, Level A Injury	Level B Harass-ment	Pinniped, Level A Injury	Cetacean, Level A Injury	Level B Harass-ment
	190 dB	180 dB	160 dB	190 dB	180 dB	125 dB
48, unattenuated	14 m	63 m	1,359 m	<10 m	<10 m	3,981 m.
48, 10 dB Attenuation	<10 m	13 m	293 m	<10 m	<10 m	858 m.

In order to document potential incidents of harassment, monitors will record all marine mammal observations regardless of location. The observer's location, as well as the location of the pile being driven, is known from a global positioning system (GPS). The location of the animal is estimated as a distance from the observer, which is then compared to the location from the pile and the ZOIs for relevant activities (*i.e.,* pile installation). This information may then be used to extrapolate observed takes to reach an approximate understanding of actual total takes, in the event that the entire monitoring zone is not visible.

Soft Start—The use of a soft start procedure is believed to provide additional protection to marine mammals by warning or providing a chance to leave the area prior to the hammer operating at full capacity, and typically involves a requirement to initiate sound from the hammer for 15 seconds at reduced energy followed by a waiting period. This procedure is repeated two additional times. It is difficult to specify the reduction in energy for any given hammer because of variation across drivers and, for impact hammers, the actual number of strikes at reduced energy will vary because operating the hammer at less than full power results in ''bouncing'' of the hammer as it strikes the pile, resulting in multiple ''strikes.'' The project will utilize soft start techniques for both impact and vibratory pile driving. POA will initiate sound from vibratory hammers for fifteen seconds at reduced energy followed by a 1 minute waiting period, with the procedure repeated two additional times. For impact driving, we require an initial set of three strikes from the impact hammer at reduced energy, followed by a thirty-second waiting period, then two subsequent three strike sets. Soft start will be required at the beginning of each day's pile driving work and at any time following a cessation of pile driving of 20 minutes or longer (specific to either vibratory or impact driving).

Monitoring and Shut-Down for Pile Driving

The following measures will apply to POA:

Shut-down Zone—For all pile driving activities, POA will establish a shut-down zone. Shut-down zones typically correspond to the area in which SPLs equal or exceed the 180/90 dB rms acoustic injury criteria, with the purpose being to define an area within which shut-down of activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area), thus preventing potential injury of marine mammals. For marine mammals other than beluga whales, POA, will implement a minimum shut-down zone of 100 m radius around all vibratory and impact pile activity. These precautionary measures would also further reduce the possibility of auditory injury and behavioral impacts as well as limit the unlikely possibility of injury from direct physical interaction with construction operations.

Shut-down for Beluga Whales—In order to provide more stringent protections for beluga whales, in-water pile driving operations will be shut down upon observation of any beluga whale within or approaching the maximum potential Level B harassment zone when driving unattenuated piles (1,400 m and 4,000 m for impact and vibratory pile driving, respectively). When driving piles with sound attenuation systems, POA will shutdown upon observation of whales within or approaching a smaller zone that NMFS expects would contain sound exceeding relevant harassment criteria (300 m and 900 m for impact and vibratory pile driving, respectively). Two of ten piles will be driven without use of sound attenuation systems. If shut down does occur, pile driving may not resume until the group is observed exiting the relevant shut down zone or until 30 minutes have passed without re-sighting.

Visual Marine Mammal Observation—POA will collect sighting data and behavioral responses to

construction for marine mammal species observed in the region of activity during the period of activity. All observers will be trained in marine mammal identification and behaviors and are required to have no other construction-related tasks while conducting monitoring. POA will monitor the shut-down zone and disturbance zones before, during, and after pile driving, with observers located at the best practicable vantage points.

At all times, POA will be required to monitor the maximum predicted Level B zones, regardless of sound attenuation system used. Although the zones employed for shutdown purposes in association with driving of attenuated piles are calculated assuming a 10 dB reduction in sound pressure levels, any beluga whales observed in the larger monitoring zone will be recorded and reported as potential take, pending analysis of acoustic monitoring data.

Based on our requirements, the Marine Mammal Monitoring Plan would implement the following procedures for pile driving:

• Four MMOs will work concurrently in rotating shifts to provide full coverage for marine mammal monitoring during in-water pile installation activities for the Test Pile Program. MMOs will work in four-person teams to increase the probability of detecting marine mammals and to confirm sightings. Three MMOs will scan the Level A and Level B harassment zones surrounding pile-driving activities for marine mammals by using big eye binoculars (25X), hand-held binoculars (7X), and the naked eye. One MMO will focus on the Level A harassment zone and two others will scan the Level B zone. Four MMOs will rotate through these three active positions every 30 minutes to reduce eye strain and increase observer alertness. The fourth MMO will record data on the computer, a less-strenuous activity that will provide the opportunity for some rest. A theodolite will also be available for use.

• In order to more effectively monitor the maximum potential Level B harassment zone associated with vibratory pile driving (*i.e.,* 4,000 m), personnel stationed on the hydroacoustic vessels will keep watch for marine mammals that may approach or enter that zone and will communicate all sightings to land-based MMOs and other appropriate shore staff.

• Before the Test Pile Program commences, MMOs and POA authorities will meet to determine the most appropriate observation platform(s) for monitoring during pile driving. Considerations will include:

○ Height of the observation platform, to maximize field of view and distance

○ Ability to see the shoreline, along which beluga whales commonly travel

○ Safety of the MMOs, construction crews, and other people present at the POA

○ Minimizing interference with POA activities

Height and location of an observation platform are critical to ensuring that MMOs can adequately observe the harassment zone during pile installation. The platform should be mobile and able to be relocated to maintain maximal viewing conditions as the construction site shifts along the waterfront. Past monitoring efforts at the POA took place from a platform built on top of a cargo container or a platform raised by an industrial scissor lift. A similar shore-based, raised, mobile observation platform will likely be used for the Test Pile Program.

• POA will be required to monitor the maximum potential Level B harassment zones (1,400 and 4,000 m for impact and vibratory pile driving, respectively).

• MMOs will begin observing for marine mammals within the Level A and Level B harassment zones for 30 minutes before ''the soft start'' begins. If a marine mammal(s) is present within the relevant shut-down zone prior to the ''soft start'' or if marine mammal occurs during ''soft start'' pile driving will be delayed until the animal(s) leaves the shut-down zone. Pile driving will resume only after the MMOs have determined, through sighting or after 30 minutes with no sighting, that the animal(s) has moved outside the shut-down zone. After 30 minutes, when the MMOs are certain that the shut-down zone is clear of marine mammals, they will authorize the soft start to begin.

• If a marine mammal other than a beluga whale is traveling along a trajectory that could take it into the maximum potential Level B harassment zone, the MMO will record the marine mammal(s) as a ''take'' upon entering that zone. While the animal remains within the Level B harassment zone, that pile segment will be completed without cessation, unless the animal approaches the 100-meter shut-down zone, at which point the MMO will authorize the immediate shut-down of in-water pile driving before the marine mammal enters the shut-down zone. Pile driving will resume only once the animal has left the shut-down zone on its own or has not been resighted for a period of 30 minutes.

• If waters exceed a sea-state which restricts the observers' ability to make observations within the relevant marine mammal shut-down zone (*e.g.* excessive wind or fog), pile installation will cease until conditions allow the resumption of monitoring.

• The waters will be scanned 30 minutes prior to commencing pile driving at the beginning of each day, and prior to commencing pile driving after any stoppage of 30 minutes or greater. If marine mammals enter or are observed within the designated marine mammal shutdown zone during or 30 minutes prior to pile driving, the monitors will notify the on-site construction manager to not begin until the animal has moved outside the designated radius.

• The waters will continue to be scanned for at least 30 minutes after pile driving has completed each day.

Mitigation Conclusions

NMFS has carefully evaluated the applicant's proposed mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

• The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals

• The proven or likely efficacy of the specific measure to minimize adverse impacts as planned

• The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

1. Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

2. A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to received levels of pile driving, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

3. A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to received levels of pile driving, or other activities expected to result in the take of marine mammals

(this goal may contribute to 1, above, or to reducing harassment takes only).

4. A reduction in the intensity of exposures (either total number or number at biologically important time or location) to received levels of pile driving, or other activities expected to result in the take of marine mammals (this goal may contribute to a, above, or to reducing the severity of harassment takes only).

5. Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

6. For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, our determination is that the mitigation measures provide the means of effecting the least practicable impact on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an ITA 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 ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. POA submitted a marine mammal monitoring plan as part of the IHA application. It can be found at *http://www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.*

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

1. An increase in the probability of detecting marine mammals, both within the mitigation zone (thus allowing for more effective implementation of the mitigation) and in general to generate more data to contribute to the analyses mentioned below;

2. An increase in our understanding of how many marine mammals are likely to be exposed to levels of pile driving that we associate with specific adverse effects, such as behavioral harassment, TTS, or PTS;

3. An increase in our understanding of how marine mammals respond to stimuli expected to result in take and how anticipated adverse effects on individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:

- Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
- Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
- Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli;

4. An increased knowledge of the affected species; and

5. An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

Acoustic Monitoring

The POA has developed an acoustic monitoring plan titled *Anchorage Port Modernization Project Test Pile Program Draft Hydroacoustic Monitoring Framework.* Specific details regarding the plan may be found at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm* POA will conduct acoustic monitoring for impact pile driving to determine the actual distances to the 190 dB re 1μPa rms, 180 dB re 1μPa rms, and 160 dB re 1μPa rms isopleths, which are used by NMFS to define the Level A injury and Level B harassment zones for pinnipeds and cetaceans for impact pile driving. The POA will also measure background noise levels in the absence of pile driving activity and will conduct acoustic monitoring for vibratory pile driving to determine the actual distance to the point at which the signal becomes indistiuinguishable from background sound levels (assuming these are greater than 120 dB). Encapsulated bubble curtains and resonance-based attenuation systems will be tested during installation of some piles to determine their relative effectiveness at attenuating underwater noise.

A typical daily sequence of operations for an acoustic monitoring day will include the following activities:

- Discussion of the day's pile-driving plans with the crew chief or appropriate contact and determination of setup locations for the fixed positions. Considerations include the piles to be driven and anticipated barge movements during the day.
- Calibration of hydrophones.
- Setup of the near (10-meter) system either on the barge or the existing dock.
- Deployment of an autonomous or cabled hydrophone at one of the distant locations.
- Recording pile driving operational conditions throughout the day.
- Upon conclusion of the day's pile driving, retrieve the remote systems, post- calibrate all the systems, and download all systems.
- A stationary hydrophone recording system used to determine SSLs will be suspended either from the pile driving barge or existing docks at approximately 10 meters from the pile being driven, for each pile driven. These data will be monitored in real-time.
- Prior to monitoring, a standard depth sounder will record depth before pile driving commences. The sounder will be turned off prior to pile driving to avoid interference with acoustic monitoring. Once the monitoring has been completed, the water depth will be recorded.
- A far range hydrophone will be located at a distance no less than 20 times the source water depth from the pile driving activity outside of the active shipping lanes/dredge area. If possible, this hydrophone should be moored using the same anchoring equipment and in the same location as was used for the background noise monitoring. In this situation, the hydrophone would be located between 500 and 1,000 meters (1,640—3,280 feet) from the indicator test piles, which is sufficiently greater than 20 times the source water depth. This hydrophone will also be located in waters greater than 10 meters (33 feet) deep and avoid areas of irregular bathymetry. The hydrophone will be placed within a few meters of the bottom in order to reduce flow noise avoid areas of irregular bathymetry. The hydrophone will be placed within a few meters of the bottom in order to reduce flow noise

Vessel-Based Hydrophones (One to Two Locations)

- An acoustic vessel with a single-channel hydrophone will be in the Knik Arm open water environment to monitor near-field and real-time

isopleths for marine mammals (Figure 13–1, Figure 13–4 in Application).

• Continuous measurements will be made using a sound level meter.

• One or two acoustic vessels are proposed to deploy hydrophones that will be used to collect data to estimate the distance to far-field sound levels (*i.e.,* the 120–125-dB zone for vibratory and 160-dB zone for impact driving).

• During the vessel-based recordings, the engine and any depth finders must be turned off. The vessel must be silent and drifting during spot recordings.

• Either a weighted tape measure or an electronic depth finder will be used to determine the depth of the water before measurement and upon completion of measurements. A GPS unit or range finder will be used to determine the distance of the measurement site to the piles being driven.

• Prior to and during the pile-driving activity, environmental data will be gathered, such as water depth and tidal level, wave height, and other factors, that could contribute to influencing the underwater sound levels (*e.g.,* aircraft, boats, etc.). Start and stop time of each pile-driving event and the time at which the bubble curtain is turned on and off will be logged.

• The construction contractor will provide relevant information, in writing, to the hydroacoustic monitoring contractor for inclusion in the final monitoring report:

Data Collection

MMOs will use approved data forms. Among other pieces of information, POA will record detailed information about any implementation of shut-downs, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any. In addition, POA will attempt to distinguish between the number of individual animals taken and the number of incidents of take. At a minimum, the following information would be collected on the sighting forms:

• Date and time that monitored activity begins or ends;

• Construction activities occurring during each observation period;

• Weather parameters (*e.g.,* percent cover, visibility);

• Water conditions (*e.g.,* sea state, tide state);

• Species, numbers, and, if possible, sex and age class of marine mammals;

• Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from pile driving activity;

• Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;

• Locations of all marine mammal observations; and

• Other human activity in the area.

Ambient Noise

Ambient noise will be collected according to the NMFS' guidance memorandum issued on January 31, 2012, titled *Data Collection Methods to Characterize Underwater Background Sound Relevant to Marine Mammals in Coastal Nearshore Waters and Rivers of Washington and Oregon* (NMFS 2012). This guidance is considered to be generally applicable for marine conditions and hydroacoustic monitoring in Alaska.

Reporting

POA will notify NMFS prior to the initiation of the pile driving activities and will provide NMFS with a draft monitoring report within 90 days of the conclusion of the proposed construction work or 60 days prior to the start of additional work covered under a subsequent IHA or Letter of Authorization. This report will detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed. If no comments are received from NMFS within 30 days, the draft final report will constitute the final report. If comments are received, a final report must be submitted within 30 days after receipt of comments.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as: ''. . . any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].''

Given the many uncertainties in predicting the quantity and types of impacts of sound in every given situation on marine mammals, it is common practice to estimate how many animals are likely to be present within a particular distance of a given activity, or exposed to a particular level of sound, based on the available science. The method used for calculating potential exposures to impact and vibratory pile driving noise for each threshold was estimated using a habitat-based predictive density model (Goetz et al., 2012) and local marine mammal data sets.

Harbor Seal and Harbor Porpoise

Estimated take for harbor seals and harbor porpoises was modified from the levels published in the **Federal Register** notice of proposed authorization. This change was based on discussion with the Marine Mammal Commission. NMFS had originally proposed 31 harbor seal takes and 37 harbor porpoise takes. The Commission felt that there was a strong likelihood that more harbor seals would be taken compared to harbor porpoises. NMFS had estimated that one animal of each species would be taken per day resulting in 31 per species. NMFS also added 6 take for harbor porpoises as a contingency since these animals are known to travel in pods.

NMFS acknowledges that takes for various species can be estimated through a variety of methodologies. NMFS re-calculated take for these two species. As a conservative measure, daily individual sighting rates for any recorded year were generally used to quantify take of harbor seals and harbor porpoises for pile driving associated with the Test Pile Program. Data was collected as part of the MTRP Scientific Monitoring program, which took place from 2008 through 2011 (Cornick *et al.* 2008. 2009, 2010, 2011).

The following equation was used to estimate harbor seal and harbor porpoise exposures

Exposure estimate = (N) * # days of pile driving per site,

Where:

N = highest daily abundance estimate for each species in project area.

For harbor porpoises there was only a single sighting of more than one animal so NMFS opted to use a daily abundance rate of one for a total authorized take of 31. For harbor seals there were several reports of two or more animals. Therefore, NMFS applied a daily abundance estimate of two for a total authorized take of 62.

Steller Sea Lion

There were three sightings of a single Steller sea lion during construction at the POA in 2009, and it is not possible to determine whether it was one or more animals. Alaska marine waters, including Cook Inlet, are undergoing environmental changes that are correlated with changes in movements

of animals, including marine mammals, into expanded or contracted ranges. For example, harbor seals and harbor porpoises are increasing in numbers in Upper Cook Inlet. It is unknown at this time what the impacts of environmental change will be on Steller sea lion movements, but it is possible that Steller sea lions may be sighted more frequently in Upper Cook Inlet, which is generally considered outside their typical range. The Steller sea lions sightings at the POA in 2009 indicate that this species can and does occur in Upper Cook Inlet. As such, NMFS proposed an encounter rate of 1 individual for every 5 pile driving days across 31 driving days in the proposed authorization published in the **Federal Register**. Furthermore, Steller sea lions are social animals and often travel in groups, and a single sighting could include more than one individual. Therefore, NMFS conservatively estimates that six Steller sea lions could to be observed at the POA during the proposed timeframe of the Test Pile Program.

Killer Whales

No killer whales were sighted during previous monitoring programs for the Knik Arm Crossing and POA construction projects, based on a review of monitoring reports. The infrequent sightings of killer whales that are reported in upper Cook Inlet tend to occur when their primary prey (anadromous fish for resident killer whales and beluga whales for transient killer whales) are also in the area (Shelden *et al.* 2003).

With in-water pile driving occurring for only about 27 hours over 31 days, the potential for exposure within the Level B harassment isopleths is anticipated to be extremely low. Level B take is conservatively estimated at no more than 8 killer whales, or two small pods, for the duration of the Test Pile Program.

Cook Inlet Beluga Whale

For beluga whales, aerial surveys of Cook Inlet were completed in June and July from 1994 through 2008 (Goetz *et al.* 2012). Data from these aerial surveys were used along with depth soundings, coastal substrate type, an environmental sensitivity index, an index of anthropogenic disturbance, and information on anadromous fish streams to develop a predictive beluga whale habitat model (Goetz *et al.* 2012)

Three different beluga distribution maps were produced from the habitat model based on sightings of beluga whales during aerial surveys. First, the probability of beluga whale presence was mapped using a binomial (*i.e.,* yes or no) distribution and the results ranged from 0.00 to 0.01. Second, the expected group size was mapped. Group size followed a Poisson distribution, which ranged from 1 to 232 individuals in a group. Third, the product (*i.e.,* multiplication) of these predictive models produced an expected density model, with beluga whale densities ranging from 0 to 1.12 beluga whales/km^2. From this model Goetz *et al.* (2012) developed a raster GIS dataset, which provides a predicted density of beluga whales throughout Cook Inlet at a scale of one square kilometer. Habitat maps for beluga whale presence, group size, and density (beluga whales/km^2) were produced from these data and resulting model, including a raster Geographic Information System data set, which provides a predicted density of beluga whales throughout Cook Inlet at a 1-km^2-scale grid.

The numbers of beluga whales potentially exposed to noise levels above the Level B harassment thresholds for impact (160 dB) and vibratory (125 dB) pile driving were estimated using the following formula:

Beluga Exposure Estimate = N * Area * number of days of pile driving,

Where:

N = maximum predicted # of belugas whales/km^2

Area = Area of Isopleth (area in km^2 within the 160-dB isopleth for impact pile driving, or area in km^2 within the 125-dB isopleth for vibratory pile driving)

The distances to the Level B harassment and Level A injury isopleths were used to estimate the areas of the Level B harassment and Level A injury zones associated with driving a 48-inch pile, without consideration of potential effectiveness of sound attenuation systems. Note that ambient noise is likely elevated in the area, and 125 dB is used as a proxy for the background sound level. Distances and areas were calculated for both vibratory and impact pile driving, and for cetaceans and pinnipeds. Geographic information system software was used to map the Level B harassment and Level A injury isopleths from each of the six indicator test pile locations. Land masses near the POA, including Cairn Point, the North Extension, and Port MacKenzie, act as barriers to underwater noise and prevent further spread of sound pressure waves. As such, the harassment zones for each threshold were truncated and modified with consideration of these impediments to sound transmission (See Figures 6–1 through 6–6 in the Application). The measured areas (Table 6) were then used in take calculations for beluga whales.

TABLE 4—AREAS OF THE LEVEL A AND LEVEL B HARASSMENT ZONES *

Indicator teste piles	Impact			Vibratory		
	Pinniped, Level A	Cetacean, Level A	Level B	Pinniped, Level A	Cetacean, Level A	Pinniped, Level B
	190 dB	180 dB	160 dB	190 dB	180 dB	125 dB
Piles 3, 4	<0.01 km^2	<0.01 km^2	2.24 km^2	0 km^2	0 km^2	15.54 km^2.
Pile 1			2.71 km^2			19.54 km^2.
Pile 2			2.76 km^2			20.08 km^2.
Piles 5, 6			2.79 km^2			20.90 km^2.
Pile 7			2.80 km^2			20.95 km^2.
Piles 8, 9, 10			3.03 km^2			22.14 km^2.

* Based on the distances to sound isopleths for a 48-inch-diameter pile, assuming a 125-dB background noise level.

The beluga whale exposure estimate was calculated for each of the six indicator test pile locations separately, because the area of each isopleth was different for each location. The predicted beluga whale density raster (Goetz *et al.* 2012) was overlaid with the isopleth areas for each of the indicator test pile locations. The maximum predicted beluga whale density within each area of isopleth was then used to calculate the beluga whale exposure

estimate for each of the indicator test pile locations. The maximum density values ranged from 0.031 to 0.063 beluga whale/km^2 (Table 5).

In the **Federal Register** Notice of proposed authorization, NMFS calculated an incorrect number of driving days at 43.5, which assumed that impact driving would occur on 12.5 days and vibratory could occur on 31 days. Impact and vibratory driving, however, will occur on a total of only 31 days. NMFS summed fractions of takes across days equaling a total of 19.245 takes which was rounded up to 20. NMFS also rounded the large group factor of 11.1 up to 12 resulting in a preliminary take estimate of 32 beluga whales. However, based on discussion with the Commission, NMFS revised the take estimates to reflect standard rounding practices (as typically used by NMFS in estimating potential marine mammal exposures to sound) to arrive at a number of whole animals likely to be exposed per day.

In the revised take estimate, the area values were multiplied by the maximum predicted densities for both impact and vibratory driving as was done in the **Federal Register** Notice of proposed authorization. The impact driving takes per day values were all well below one (see Table 5). Employing standard rounding practices for this final IHA would result in zero takes from impact driving. However, we recognize that there is some non-zero probability of exposure of beluga whales due specifically to impact pile driving and, given that there are a total of 18.5 days of impact pile driving possible, we believe that a conservative estimate of 2 beluga takes during the days of impact driving is reasonable.

Using standard rounding procedures, we estimate that there would be one beluga whale exposed per day of vibratory driving (see Table 4). When considering the projected number of days of vibratory pile driving including a 25 percent contingency for work delays (*i.e.,* 12.5 total days of vibratory driving), we estimate 13 takes from vibratory driving. The takes from impact driving per pile were added to the takes per pile from vibratory driving resulting in an estimated 15 beluga whale takes. Results are shown in Table 5.

TABLE 5—ESTIMATED COOK INLET BELUGA WHALE TAKES

Pile number	Impact pile driving area (km^2)	Impact driving max density (whales/km^2)	Takes per day impact driving/ rounded takes	Vibratory pile driving area (km^2)	Vibratory driving max density (whales/km^2)	Takes per day vibratory driving/ rounded takes
Pile 3	2.24	0.031	0.07/0	15.54	0.056	0.87/1
Pile 4	2.24	0.031	0.07/0	15.54	0.056	0.87/1
Pile 1	2.71	0.042	0.11/0	19.54	0.063	1.23/1
Pile 2	2.76	0.038	0.10/0	20.08	0.062	1.24/1
Pile 5	2.79	0.062	0.17/0	20.9	0.062	1.30/1
Pile 6	2.79	0.062	0.17/0	20.9	0.062	1.30/1
Pile 7	2.8	0.062	0.17/0	20.95	0.062	1.30/1
Pile 8	3.03	0.042	0.13/0	22.14	0.063	1.39/1
Pile 9	3.03	0.042	0.13/0	22.14	0.063	1.39/1
Pile 10	3.03	0.042	0.13/0	22.14	0.063	1.39/1
Total Rounded Takes (assume 18.5 days of impact pile driving)			0	Total Rounded Takes (assume 12.5 days of vibratory pile driving)		12.5
Total Takes			2 *	Total Rounded Takes		13
Total Takes From Impact And Vibratory Driving						15

* Note that takes per day from impact driving rounded down to zero. NFMS acknowledges the risk of take is greater than zero and as a contingency estimated two total takes from impact pile driving.

The beluga density estimate used for estimating potential beluga exposures does not reflect the reality that beluga whales can travel in large groups. As a contingency that a large group of beluga whales could potentially occur in the project area, NMFS buffered the exposure estimate detailed in the preceding by adding the estimated size of a notional large group of beluga whales. Incorporation of large groups into the beluga whale exposure estimate is intended to reflect the possibility that whales could be exposed to behavioral harassment based on what is known about belugas' tendency to travel together in pods. A single large group has been added to the estimate of exposure for beluga whales based on the density method, in the anticipation that the entry of a large group of beluga whales into a Level B harassment zone would take place, at most, one time during the project. To determine the most appropriate size of a large group, two sets of data were examined: (1) Beluga whale sightings collected opportunistically by POA employees since 2008 and (2) Alaska Pacific University (APU) scientific monitoring that occurred from 2007 through 2011.

The APU scientific monitoring data set documents 390 beluga whale sightings. Group size exhibits a mode of 1 and a median of 2, indicating that over half of the beluga groups observed over the 5-year span of the monitoring program were of individual beluga whales or groups of 2. As expected, the opportunistic sighting data from the POA do not reflect this preponderance of small groups. The POA opportunistic data do indicate, however, that large groups of belugas were regularly seen in the area over the past 7 years, and that group sizes ranged as high as 100 whales. Of the 131 sightings documented in the POA opportunistic data set, 48 groups were of 15 or more beluga whales.

The 95th percentile of group size for the APU scientific monitoring data is 11.1 beluga whales, rounded down to 11 beluga whales. In the **Federal Register** Notice of proposed authorization, the value was erroneously rounded up to 12. This means that, of the 390 documented beluga whale groups in this data set, 95 percent consisted of fewer than 11.1 whales; 5 percent of the groups consisted of more than 11.1 whales. Therefore, it is improbable that a group of more than 11 beluga whales

would occur during the Test Pile Program. This number balances reduced risk to the POA with protection of beluga whales. POA opportunistic observations indicate that many groups of greater than 11 beluga whales commonly transit through the project area. APU scientific monitoring data indicate that 5 percent of their documented groups consisted of greater than 11 beluga whales.

The total number of estimated and authorized takes of Cook Inlet beluga whales is, therefore, 15 (13 vibratory/2 impact driving) using the density method plus 11 based on the large group adjustment, resulting in 26 total incidents of take. No Level A harassment is expected or authorized.

Note that this take estimate and authorization is based on the maximum predicted zone of influence (*i.e.,* 1,359 m and 3,981 m for impact and vibratory driving, respectively). This is a precautionary approach accounting for the possibility that the sound attenuation systems used may not always achieve effective attenuation of at least 10 dB.

Analyses and Determinations

Negligible Impact Analysis

Negligible impact is ''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 Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, effects on habitat, and the status of the species.

To avoid repetition, the discussion of our analyses applies to all the species listed in Table 6, given that the anticipated effects of this pile driving project on marine mammals are expected to be relatively similar in nature. Except for beluga whales, where we provide additional discussion, there is no information about the size, status, or structure of any species or stock that would lead to a different analysis for this activity; otherwise species-specific factors would be identified and analyzed.

Pile driving activities associated with the Test Pile Program, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment (behavioral disturbance) only, from underwater sounds generated from pile driving. Harassment takes could occur if individuals of these species are present in the ensonified zone when pile driving is happening.

No injury, serious injury, or mortality is anticipated given the nature of the activity and measures designed to minimize the possibility of injury to marine mammals. The potential for these outcomes is minimized through the implementation of the following planned mitigation measures. POA will employ a ''soft start'' when initiating driving activities. Given sufficient ''notice'' through use of soft start, marine mammals are expected to move away from a pile driving source. The likelihood of marine mammal detection ability by trained observers is high under the environmental conditions described for waters within a 1,000 meter distance of the project area. This enables reasonable certainty of the implementation of required shut-downs to avoid potential injury of marine mammals other than beluga whales and to minimize potential harassment of beluga whales for the majority of driven piles. POA's proposed activities are localized and of relatively short duration. The total amount of time spent pile driving, including a 25% contingency, will be 27 hours over approximately 31 days.

These localized and short-term noise exposures may cause brief startle reactions or short-term behavioral modification by the animals. These reactions and behavioral changes are expected to subside quickly when the exposures cease.

The project is not expected to have significant adverse effects on affected marine mammals' habitat, as analyzed in detail in the ''Anticipated Effects on Marine Mammal Habitat'' section. No important feeding and/or reproductive areas for marine mammals other than beluga whales are known to be near the proposed project area. Project-related activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the short duration of the activities and the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

Beluga whales have been observed transiting past the POA project by both scientific and opportunistic surveys. During the spring and summer when the Test Pile Program is scheduled, belugas are generally concentrated near warmer river mouths where prey availability is high and predator occurrence is low (Moore *et al.* 2000). Data on beluga whale sighting rates, grouping, behavior, and movement indicate that the POA is a relatively low-use area, occasionally visited by lone whales or small groups of whales. They are observed most often at low tide in the fall, peaking in late August to early September. Groups with calves have been observed to enter the POA area, but data do not suggest that the area is an important nursery area. Although POA scientific monitoring studies indicate that the area is not used frequently by many beluga whales, it is apparently used for foraging habitat by whales traveling between lower and upper Knik Arm, as individuals and groups of beluga whales have been observed passing through the area each year during monitoring efforts. Data collected annually during monitoring efforts demonstrated that few beluga whales were observed in July and early August; numbers of sightings increased in mid-August, with the highest numbers observed late August to mid-September. In all years, beluga whales have been observed to enter the project footprint while construction activities were taking place, including pile driving and dredging. The most commonly observed behaviors were traveling, diving, and suspected feeding. No apparent behavioral changes or reactions to in-water construction activities were observed by either the construction or scientific observers (Cornick *et al.* 2011).

Critical habitat for Beluga whales has been identified in the area. However, habitat in the immediate vicinity of the project has been excluded from critical habitat designation. Furthermore the project activities would not modify existing marine mammal habitat. NMFS concludes that both the short-term adverse effects and the long-term effects on beluga whale prey quantity and quality will be insignificant. The sound from pile driving may interfere with whale passage between lower and upper Knik Arm. However, POA is an industrialized area with significant noise from vessel traffic and beluga whales pass through the area unimpeded.

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff, 2006; Lerma, 2014). Most likely, individuals will simply move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. The pile removal activities analyzed here are similar to, or less impactful than, numerous construction activities conducted in other similar locations, which have taken place with no reported injuries or mortality to marine mammals, and no known long-term adverse consequences from behavioral harassment. Repeated exposures of individuals to levels of sound that may cause Level B harassment here are unlikely to result in hearing impairment or to significantly disrupt foraging behavior. Thus, even repeated Level B harassment of some small subset of the species is unlikely to result in any significant realized decrease in fitness for the affected individuals, and thus would not result in any adverse impact to the stock as a whole. Impacts will be reduced to the least practicable level through use of mitigation measures described herein. Finally, if sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the project area while the activity is occurring.

In summary, this negligible impact analysis is founded on the following factors for beluga whales: (1) The seasonal distribution and habitat use patterns of Cook Inlet beluga whales, which suggest that for much of the time only a small portion of the population would be in the vicinity of the Test Pile Program; (2) the lack of behavioral changes observed with previous construction activities; (3) the nominal impact on critical habitat; (4) the mitigation requirements, including shut-downs for one or more belugas; (4) the monitoring requirements described earlier in this document for all marine mammal species that will further reduce the amount and intensity of takes; and (5) monitoring results from previous activities that indicated low numbers of beluga whale sightings within the Level B disturbance exclusion zone.

For marine mammals other than beluga whales the negligible impact analysis is based on the following: (1) The possibility of injury, serious injury, or mortality may reasonably be considered discountable; (2) the anticipated incidents of Level B harassment consist of, at worst, temporary modifications in behavior; (3) the absence of any significant habitat within the project area, including rookeries, significant haul-outs, or known areas or features of special significance for foraging or reproduction; (4) the anticipated efficacy of the proposed mitigation measures in reducing the effects of the specified activity. In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the potential effects of the specified activity will have only short-term effects on individuals. The specified activity is not expected to impact annual rates of recruitment or survival and will therefore have a negligible impact on those species.

Therefore, 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 finds that the total marine mammal take from POA's Test Pile Program will have a negligible impact on the affected marine mammal species or stocks.

TABLE 6—AUTHORIZED LEVEL B HARASSMENT TAKE LEVELS, DPS OR STOCK ABUNDANCE, AND PERCENTAGE OF POPULATION PROPOSED TO BE TAKEN

DPS or stock	Proposed Level B take harassment	Abundance (DPS or stock)	Percentage of population
Cook Inlet beluga whale	26	312 [a]	8.33
Killer whale	8	2,347 Resident [b] 587 Transient	0.34 Resident [c] 1.36 Transient.
Harbor porpoise	31	31,046 [d]	0.10.
Harbor seal	62	27,836 [e]	0.22.
Western DPS, Steller sea lion	6	49,497 [f]	<0.01.

[a] Abundance estimate for the Cook Inlet stock and DPS (Allen and Angliss, 2015; Shelden et al., 2015).
[b] Abundance estimate for the Eastern North Pacific Alaska Resident stock; the estimate for the transient population is for the Gulf of Alaska, Aleutian Islands, and Bering Sea stock.
[c] Assumes all individuals would be from the resident stock or the transient stock.
[d] Abundance estimate for the Gulf of Alaska stock.
[e] Abundance estimate for the Cook Inlet/Shelikof stock.
[f] Abundance estimate for the Western U.S. Stock and western DPS.
Sources for population estimates other than Cook Inlet beluga whales: Allen and Angliss 2013, 2014, 2015.

Small Numbers Analysis

Table 6 indicates the numbers of animals that could be exposed to received noise levels that could cause Level B behavioral harassment from work associated with the proposed Test Pile Program. The analyses provided represents between <0.01% to 8.33% of the populations of these stocks that could be affected by Level B behavioral harassment. These are small numbers of marine mammals relative to the sizes of the affected species and population stocks under consideration. Furthermore, it is possible that some beluga whale takes may represent a single individual that is counted repeatedly.

Based on the methods used to estimate take, and taking into consideration the implementation of the mitigation and monitoring measures, we find that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

Impact on Availability of Affected Species for Taking for Subsistence Uses

NMFS has defined ''unmitigable adverse impact'' in 50 CFR 216.103 as: ''an impact resulting from the specified activity: (1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid

hunting areas; (ii) Directly displacing subsistence users; or (iii) Placing physical barriers between the marine mammals and the subsistence hunters; and (2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

The proposed Test Pile Program will occur in or near a traditional subsistence hunting area and could affect the availability of marine mammals for subsistence uses. Harbor seals are the only species for which take is authorized that may be subject to limited boat-based subsistence hunting.

POA communicated with representative Native subsistence users and Tribal members to develop a Plan of Cooperation, which identifies what measures have been taken or will be taken to minimize any adverse effects of the Test Pile Program on the availability of marine mammals for subsistence uses. On December 22, 2015, POA sent letters to eight tribes including the the Kenaitze, Tyonek, Knik, Eklutna, Ninilchik, Seldovia, Salamatoff, and Chickaloon tribes informing them of the project and identifying potential impacts to marine mammals as well as planned mitigation efforts. POA also inquired about any possible marine mammal subsistence concerns they might have. None of the tribes indicated that they had any concerns with the proposed Test Pile Program.

Since all project activities will take place within the immediate vicinity of the POA, the project will not have an adverse impact on the availability of marine mammals for subsistence use at distant locations. Due to mitigation and monitoring requirements, no displacement of marine mammals from traditional hunting areas or changes to availability of subsistence resources will result from Test Pile Program activities. Given the combination of the Test Pile Program location, small size of the affected area, and required mitigation and monitoring measures NMFS has determined that there will not be an unmitigable adverse impact on subsistence uses from POA's proposed activities.

Endangered Species Act (ESA)

The Cook Inlet beluga whale and western depleted population segment of Steller sea lion are mammal species listed as endangered under the ESA with confirmed or possible occurrence in the study area. NMFS' Permits and Conservation Division has completed a formal consultation with NMFS' Protected Resources Division under section 7 of the ESA on the issuance of an IHA to POA under section 101(a)(5)(D) of the MMPA for this activity. A Biological Opinion was issued on March 2, 2016 and is posted at *http://www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* NMFS determined that while the proposed action may affect Cook Inlet beluga whales and wDPS Steller sea lions, it is not likely to jeopardize the continued existence of those species or adversely modify any designated critical habitat.

National Environmental Policy Act (NEPA)

NMFS drafted a document titled *Environmental Assessment for Issuance of an Incidental Harassment Authorization to the Port of Alaska for the Take of Marine Mammals Incidental to a Test Pile Program* and *Finding of No Significant Impact* (FONSI). The FONSI was signed on March 2, 2016. The EA/FONSI is posted at h*ttp://www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.*

Authorization

As a result of these determinations, we have issued an IHA to POA for conducting the Test Pile Program in Anchorage, AK from April 1, 2016 through March 31, 2017 through provided the previously described mitigation, monitoring, and reporting requirements are incorporated.

Dated: March 9, 2016.

Perry Gayaldo,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE511

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold a four-day meeting to consider actions affecting the Gulf of Mexico fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will take place on Monday, April 4 through Thursday, April 7, 2016, starting at 8:30 a.m. daily.

ADDRESSES: The meeting will be held at the Doubletree by Hilton hotel, 6505 N. Interstate Highway 35 North, Austin, TX 78752; telephone: (512) 454–3737.

Council address: Gulf of Mexico Fishery Management Council, 2203 N. Lois Avenue, Suite 1100, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Douglas Gregory, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Agenda

Monday, April 4, 2016; 8:30 a.m.–5 p.m.

The Gulf Council will begin with updates and presentations from management committees. The Joint Administrative Policy & Budget Management Committee will review the 2014 No-cost extension, 2015 & 2016 Budgets, and 2016 Proposed Activities. The Data Collection Committee will review the Electronic Reporting Program Flowchart; give an update on the Commercial Electronic Reporting Pilot Program; and discuss Final Action—South Atlantic's Amendment: Modifications to Charter Vessel and Headboat Reporting Requirements. The Shrimp Management Committee will discuss the Biological Review of the Texas Closure; review the Updated Stock Assessments for Brown, White and Pink shrimp; receive a summary from the Shrimp Advisory Panel (AP) meeting; review of Options Paper for Shrimp Amendment 17B; and receive a summary from the Shrimp Scientific and Statistical Committee (SSC) meeting. After lunch, the Mackerel Management Committee will discuss Final Action on Coastal Migratory Pelagics (CMP) Amendment 26: Changes in Allocations, Stock Boundaries and Sale Provisions for Gulf of Mexico and Atlantic Migratory Groups of King Mackerel; receive summary of Public Hearing Comments and Written Public Comments; and a summary from the Law Enforcement Advisory Panel. The Law Enforcement Committee will receive a summary from the Law Enforcement Technical Committee; and select the recipient for Officer of the Year award.

Tuesday, April 5, 2016; 8:30 a.m.–5 p.m.

The Reef Fish Management Committee will receive an update on 2015 Recreational Red Snapper Landings and Recreational Season Projections for 2016; take final action on Framework Action to Modify Red Grouper Annual Catch Limits; review Options Paper for Amendment 46—Modify Gray Triggerfish Rebuilding

Plan and Draft Amendment 41—Red Snapper Management for Federally Permitted Charter Vessels. The committee will receive a summary report from the Ad Hoc Red Snapper Charter For-Hire Advisory Panel (AP) meeting; review of Draft Amendment 42—Federal Reef Fish Headboat Management, Public Hearing Draft Amendment 43—Hogfish Stock Definition, Status Determination Criteria (SDC), Annual Catch Limits (ACL) and Size Limit; review Draft Amendment 45—Extend or Eliminate the Red Snapper Sector Separation Sunset Provision; and review preliminary options for Mechanism to Allow Recreational Red Snapper Season to Re-open if ACL is not exceeded.

Wednesday, April 6, 2016; 8:30 a.m.–5 p.m.

The Reef Fish Management Committee will discuss Final Action on Framework Action to Modify Commercial Gear Requirements and Recreational/Commercial Fishing Year for Yellowtail Snapper; and any other business. The Gulf SEDAR Committee will review and provide updates on SEDAR Schedule Progress and deliverables; and receive a SEDAR Steering Committee update.

The Full Council will convene approximately mid-morning (10:30 a.m.) with a Call to Order, Announcements and Introductions; Adoption of Agenda and Approval of Minutes; and will review Exempt Fishing Permit (EFPs) Applications, if any. The Council will receive presentations on Proposed Rule Standardized Bycatch Reporting Methodology, Science Update: How the Oil Spill Impacted the Fish Species We Care About, Mid-Atlantic Fishery Management Council's Ecosystem Approach to Fisheries Management, and NMFS–SERO Landing Summaries.

After lunch, the Council will receive public testimony from 1:45 p.m. until 5 p.m. on Agenda Testimony Items: Final Action—Coastal Migratory Pelagics Amendment 26: Changes in Allocations, Stock Boundaries and Sale Provisions for Gulf of Mexico and Atlantic Migratory Groups of King Mackerel; Final Action—Framework Action to Modify Red Grouper Annual Catch Limits; Final Action—Framework Action to Modify Commercial Gear Requirements and Recreational/Commercial Fishing Year for Yellowtail Snapper; Final Action—South Atlantic Amendment: Modifications to Charter Vessel and Headboat Reporting Requirements and hold an open public testimony period regarding any other fishery issues or concern. Anyone wishing to speak during public comment should sign in at the registration station located at the entrance to the meeting room.

Thursday, April 7, 2016; 8:30 a.m.–3:30 p.m.

The Council will review and discuss committee reports as follows: Joint Administrative Policy/Budget, Law Enforcement, Data Collection, Shrimp, Mackerel, Gulf SEDAR, and Reef Fish Management Committees; and, vote on Exempted Fishing Permits (EFP) applications, if any. Lastly, the Council will discuss other business items, if any.

Meeting Adjourns

The timing and order in which agenda items are addressed may change as required to effectively address the issue. The latest version will be posted on the Council's file server, which can be accessed by going to the Council's Web site at *http://www.gulfcouncil.org* and clicking on FTP Server under Quick Links. For meeting materials, select the ''Briefing Books/Briefing Book 2016–04'' folder on Gulf Council file server. The username and password are both ''gulfguest''. The meetings will be webcast over the internet. A link to the webcast will be available on the Council's Web site, *http://www.gulfcouncil.org.*

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: March 15, 2016.

Jeffrey N. Lonergan,

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

[FR Doc. 2016–06218 Filed 3–18–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE395

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Port of Kalama Expansion Project on the Lower Columbia River

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NOAA Fisheries has received an application from the Port of Kalama (POK) for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to Port of Kalama Expansion Project. Pursuant to the Marine Mammal Protection Act (MMPA), NOAA Fisheries is requesting comments on its proposal to issue an IHA to the POK to incidentally take, by Level B Harassment only, marine mammals during the in-water construction of Kalama Marine Manufacturing and Export Facility during the 2016–2017. Work is anticipated to occur between September 1, 2016 and January 31, 2017. The authorization for this proposed project would be 120 days of in-water work between September 1, 2016 through August 31, 2017 to account for the possible need to vary the schedule due to logistics and weather. Per the Marine Mammal Protection Act, we are requesting comments on our proposal to issue and Incidental Harassment Authorization to the Port of Kalama to incidentally take, by Level B harassment only, 3 species of marine mammals during the specified activity. NOAA Fisheries does not expect, and is not proposing to authorize, Level A harassment (injury), serious injury, or mortality as a result of the proposed activity.

DATES: Comments and information must be received no later than April 20, 2016.

ADDRESSES: Comments on the application should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing email comments is *itp.youngkin@noaa.gov.* Comments sent via email, including all attachments, must not exceed a 25-

megabyte file size. NOAA Fisheries is not responsible for comments sent to addresses other than those provided here.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.NOAAFisheries.noaa.gov/pr/permits/incidental.htm* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

An electronic copy of the application may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *http://www.NOAA Fisheries.noaa.gov/pr/permits/incidental.htm.* Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Zachary Hughes, Office of Protected Resources, NOAA Fisheries, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NOAA Fisheries 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. NOAA Fisheries has defined ''negligible impact'' in 50 CFR 216.103 as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

On September 28, 2015, NOAA Fisheries received an application from the Port of Kalama (POK) for the taking of marine mammals incidental to the construction of a new pier. On December 10, 2015, a final revised version of the application was submitted and NOAA Fisheries determined that the application was adequate and complete.

The POK proposes to construct the Kalama Marine Manufacturing and Export Facility, including a new marine terminal, for the export of methanol. The proposed action also includes the installation of engineered log jams, restoration of riparian wetlands, and the removal of existing wood piles in a side channel as mitigation activities. The proposed activity is expected to occur during the 2016–2017 in-water work season for ESA listed fish species (September 1 through January 31). This proposed IHA covers from September 1, 2016 to August 31, 2017 to allow for adjustments to the schedule in-water work based on logistics, weather, and contractor needs. It is possible that the work would require a second season, at which time the applicant will seek another IHA covering the second season. The following specific aspects of the proposed activities are likely to result in the take of marine mammals: Impact pile driving, vibratory pile driving, and vibratory pile extraction. Take, by Level B Harassment only, of individuals of harbor seals (*Phoca vitulina*), Steller sea lions (*Eumetopias jubatus*), and California sea lions (*Zalophus californianus*) is anticipated to result from the specified activity.

Description of the Specified Activity

Overview

The Port of Kalama proposes to construct the Kalama Manufacturing and Marine Export Facility to manufacture and export methanol. This project consists of the upland facility for the manufacture of methanol (see application for more detail on the upland components of the proposed action), the construction of a marine terminal for the export of methanol, and associated compensatory mitigation activities for the purpose of offsetting habitat effects from the proposed action. The marine terminal will be approximately 45,000 square feet in size, supported by 320 concrete piles (24 inch precast octagonal piles) and 16 steel pipe piles (12 x 12 inch and 4 x 18-inch). In order to provide full access to the marine terminal, the adjacent waters of the Columbia River will be dredged to −48 MLLW, with an estimated 126,000 cubic yards of sediment needing to be removed.

The compensatory mitigation includes installation of eight engineered log jams (ELJs), which will be anchored by untreated wooden piles driven in by impact pile driving at low tides and not in-water. The proposed compensatory mitigation also includes the removal of approximately 320 untreated wooden piles from and abandoned U.S. Army Corps of Engineers dike in a nearby backwater area. These piles will be removed either by direct pull or vibratory extraction. Finally, the compensatory mitigation includes wetland restoration and enhancement by removal of invasive species and replacement with native wetland species.

According to the application, the proposed action is important to meet the growing global demand for methanol as a lower greenhouse gas emitting feedstock (as compared to coal) used for the production of olefins, and important for the economic development of the local community.

Dates and Duration

The proposed action will result in increased sound energy throughout the work window (September 1 through August 31) during the 2016–2017 season, and work may possibly extend into the next season and require the issuance of a separate IHA for an additional year for the 2017–2018 work season. The proposed IHA would cover the period beginning September 1, 2016 through August 31, 2017. Construction of the pier and associated compensatory mitigation will require both impact and vibratory pile driving. Pile driving may occur every day during the approved work window and throughout daylight hours. The zone of potential harassment will be centered at the port facility, approximately at river mile 72, and may affect all waters within direct line of site from the project, ensonifying approximately 7.3 km^2 acres of tidally influenced riverine habitat above the Level B harassment threshold. This IHA, which would authorize take incidental to the first year of work for this project

would be valid for a period of one year from the date of issuance.

Specified Geographic Region

The proposed action will take place on approximately 100 acres (including uplands) at the northern end of the Port of Kalama's North Port site (Lat. 46.049, Long. −122.874), located at approximately river mile 72 along the lower Columbia River along the east bank in Cowlitz County, Washington (Figure 1). The area of potential impact will extend by line of sight from the proposed action location to the nearest shoreline, and includes approximately 1800 acres of tidally influenced river habitat (see application, Figure 15).

Figure 1. Project Region

Detailed Description of Activities

The proposed upland project is designed to produce up to 10,000 metric tons per day of methanol from natural gas. The proposed manufacturing facility will have two production lines, each with a production capacity of 5,000 metric tons per day. The project site and infrastructure will be developed initially to accommodate both production lines. The anticipated yearly production at full capacity is approximately 3.6 million metric tons of methanol. The methanol will be stored in non-pressurized aboveground storage tanks with a total capacity of approximately 200,000 tons and will be surround by a containment area. Methanol will be transferred by pipeline from the storage area to a deep draft marine terminal to be constructed by the Port on the Columbia River. The facility will receive natural gas via pipeline that will undergo a separate permitting process under the jurisdiction of the Federal Energy Regulatory Commission.

In order to provide electric service to the proposed project, it is expected that the Cowlitz Public Utility District (PUD) will upgrade an existing transmission line from its existing Kalama Industrial Substation to the project site by installing new lines on existing towers within the existing transmission line corridor. Any new equipment (such as breakers and switches), would be installed at the Kalama Industrial

Substation within the existing footprint. Cowlitz PUD may also provide redundant electrical supply by constructing a new short transmission line of approximately 750 feet crossing the adjacent I–5 and railroad.

The propose project includes both upland and marine components. This document focuses on the riverine components, as those are most relevant in determining the potential for effects to marine mammals. The major upland components are briefly summarized here for reference:

—Methanol production components
- ○ Two methanol production lines;
- ○ Interconnecting facilities, including piping, product pipelines, electrical, and control systems;
- ○ Eight finished product storage tanks within a containment area and additional tanks (rework tanks and shift tanks) for storing raw methanol during the manufacturing process;
- ○ Cooling towers for industrial process water cooling;
- ○ Steam boilers;
- ○ Two air separation units;
- ○ Flare system for the disposable flammable gases during startup, shutdown, and malfunctions;

—Power generation facility;

—Fire suppression infrastructure and risk management;

—Water supply and treatment components;
- ○ Process water supply wells, treatment system, storage tanks, and distribution network;
- ○ Industrial process water treatment and disposal system;
- ○ Stormwater treatment, infiltration pond and disposal system;

—Support buildings and accessory facilities;
- ○ Security gate houses, laboratory, control rooms, warehouses, and other buildings and enclosures;
- ○ Lay-down areas for construction activities, plant maintenance, and spare part storage;
- ○ Electrical substation;
- ○ Natural gas meter station and transfer equipment;
- ○ Emergency generators;

—Site access ways and public recreation access.

This document will review in depth the construction activities that may impact marine mammals, listed as follows:

—Construction of the marine terminal including a single berth and dock with methanol loading equipment;

—Berth dredging;

—Compensatory mitigation activities.

Proposed in-water work will be conducted only during the in-water work window that is ultimately approved for this project. The currently published in-water work window for this reach of the Columbia River is 1 November–28 February. However, regulatory agencies, including the USACE, Washington Department of Fish and Wildlife (WDFW), US Fish and Wildlife Service (USFWS), and NOAA Fisheries, have recently suggested making modifications to the window to take into account the best available science and to address newly listed species. The following work windows are proposed for this project, as explained further below:

—Pile installation will be conducted between 1 September and 31 January;

—Dredging will be conducted between 1 August and 31 December;

—ELJ installation will be conducted between 1 August and 31 December;

—Compensatory mitigation pile removal may be conducted year-round;

—Work conducted below the OHWM, but outside the wetted perimeter of the river (in the dry) may be conducted year-round.

The proposed project may be built out in either one or two phases. The construction duration would be 26 to 48 months in total, with construction scheduled to begin in 2016 and completed between 2018 and 2020. In water construction activities are expected to take 120 days (not necessarily consecutive) during the 2016–2017 and/or 2017–2018 in-water work windows. Any in-water work that may result in the harassment of marine mammals will be conducted during daylight hours.

Marine Terminal Construction

The proposed marine terminal will be located along the shoreline and will consist of a single berth to accommodate oceangoing tankers arriving from the Pacific Ocean via the Columbia River navigation channel and designed for methanol storage that will transport methanol to destination ports. The marine terminal will include a dock, a berth, loading equipment, utilities, and a stormwater system. The components are designed to support the necessary product transfer equipment and safely moor the vessels that may call at the proposed terminal. The marine terminal will provide sufficient clearances from the existing North Port dock and space that will be required for vessel maneuvering during berthing and departure. The proposed terminal will accommodate vessels ranging in size from 45,000 to 127,000 DWT, which would include vessels measuring from approximately 600 to 900 feet in length and 106 to 152 feet in width. The Port expects to receive between 3 and 6 vessels per month at the new terminal for the purposes of exporting methanol. The berth may also be used for loading and unloading other types of cargo, vessel supply operations, as a lay berth, vessel moorage, and for topside vessel maintenance activities.

The dock structure will consist of an access trestle extending from the shoreline to provide vehicle, equipment, and emergency access to the dock. The trestle will be 34 feet wide by 365 feet long. From the access trestle, the berth face of the dock will extend approximately 530 feet downstream, and will consist of an 100 by 54-foot transition platform, a 370 by 36-foot berth trestle, and a 100 by 112-foot turning platform. The dock will be supported by precast 24-inch precast octagonal concrete piles supporting cast-in-place concrete pile caps, and precast, pre-stressed, haunched concrete deck panels. The dock will total approximately 45,000 square feet and includes 320 concrete piles and 16 steel pipe piles in total. The bottom of the superstructure will be located above the ordinary high water mark.

For vessel mooring, two 15-foot by 15-foot breasting dolphins will be constructed near the center of the berth trestle. Steel plates will bridge the short distance between the dock and dolphins. Each breasting dolphin will consist of seven, 24-inch precast, pre-stressed concrete battered 3 piles supporting a cast-in-place concrete pile cap with mooring bollards.

Four 15-foot by 15-foot mooring dolphins will be constructed (2 upstream and 2 downstream of the platforms) for securing bow and/or stern lines. Each mooring dolphin will consist of twelve 24-inch octagonal diameter concrete piles supporting a cast-in-place concrete pile cap. The dolphins will be equipped with mooring bollards and electric capstans. Access to the mooring dolphins will be provided from the platform by trussed walkways with open grating surfaces. The walkways will be 3 feet wide with a combined length of 375 feet and will be supported by four 18-inch diameter steel pipe piles.

The fender system will consist of 9-foot by 9-foot ultra-high molecular weight polyethylene face panels with a super cone fender unit and two 12-inch diameter steel pipe fender piles. Below the fender panels, the fender piles will have 18-inch-diameter high-density polyethylene sleeves. Fender units will be placed on the dock face, two upstream and two downstream, and on the two breasting dolphins.

A small building will be constructed on a corner of the turning platform. The building will function as a shelter from the weather and a small lunch area for the dockworkers and as a place to store tools and supplies. A second small building will be constructed at the center of the dock, adjacent to the loading arms. The building will be used as an operations shack for the loading arms. Electricity and communications services will be provided to the pier buildings, but no water or sewer services would be provided.

Stormwater from the dock will be collected and conveyed to upland treatment and infiltration swale. The stormwater system will also accommodate stormwater from the existing North Port dock, which is currently infiltrated in an upland swale that will be removed for the development.

Since pile layout is conceptual, a 10 percent contingency has been added for the estimated number of concrete piles. This will accommodate potential revisions to the pile layout and configuration as the structural design is finalized. The project may also require the installation of temporary piles during construction. Temporary piles are typically steel pipe or h-piles and will be driven with a vibratory hammer. These are placed and removed as necessary during the pile driving and overwater construction process. With the addition of the contingency, the proposed terminal will require the installation of approximately 320, 24-inch concrete piles; 12, 12-inch steel pipe piles; and 4, 18-inch steel pipe piles. Additional information regarding the specific design elements of the proposed project can be found in the application from the applicant.

Piles will be installed using vibratory and/or impact hammers (depending upon pile type, as described below), most likely operated from a barge. Piles will most likely be transported to the site and stored on site on a work barge. The contractor's water-based equipment will be a barge-mounted crane with pile-driving equipment and a materials barge with piles. At times, a second barge-mounted crane may be on site with an additional materials barge.

Concrete piles will be installed with an impact hammer. A bubble curtain will not be used during impact driving of concrete piles, as impact installation of concrete piles does not generate underwater sound pressure levels that are injurious to marine mammals. A conservative estimate is that up to a maximum of 6 to 8 piles will be impact-driven per day, with an estimated maximum of approximately 1,025 strikes per pile. Based on these estimates, it is assumed that up to approximately 8,200 strikes per day might be necessary to impact-drive concrete piles to their final tip elevation. Actual pile driving rates will vary, and a typical day will involve fewer piles and fewer strikes.

It is anticipated that all steel piles will be driven with a vibratory hammer, and that it will not be necessary to impact drive or impact proof any of the steel piles. If it does become necessary to impact-drive steel piles, a bubble curtain or similarly effective noise attenuation device will be employed to reduce the potential for effects from temporarily elevated underwater noise levels. In addition, the project may require the installation of temporary piles during construction. Temporary piles are typically steel pipe or h-piles and will be driven with a vibratory hammer. These are placed and removed as necessary during the pile driving and overwater construction process.

All pile installation will be conducted during the in-water work window (September 1 through January 31).

Berth Dredging

The existing berth serving the Port's North Port Terminal will be extended downstream to accommodate vessel activities at the new dock. The extended berth area will be deepened to -48 feet Columbia River datum (CRD) with a 2-foot overdredge allowance consistent with the existing berth. The berth will extend at an angle from the edge of the Columbia River navigation channel to the berthing line at the face of the proposed dock. The footprint of the expanded berth will be approximately 18 acres, of which approximately 16 acres will require dredging to achieve the berth depth. Existing water depths in the proposed berth area vary from -50 feet CRD to -39 feet CRD. The total volume to be dredged the first year is approximately 126,000 cubic yards (cy).

Sediment characterization for dredged material placement suitability was conducted in February 2015 in accordance with the regional Sediment Evaluation Framework, and the sediments to be dredged were found to be suitable for any beneficial reuse. Dredged material will be placed upland at the project site to provide material for construction or for other uses, or it may be placed at existing authorized in-water and upland placement sites. The existing authorized (NWP–1994–462–1) in-water placement locations include: (1) Flow lane placement to restore sediment at a deep scour hole associated with a pile dike at RM 77.48 located on the Oregon side of the river; (2) flow lane placement to restore sediment at a deep scour hole associated with a pile dike at RM 75.63 located on the Washington side of the river; (3) beach nourishment at the Port's shoreline park (Louis Rasmussen Park) at RM 76; and (4) the Ross Island Sand and Gravel disposal site in Portland, Oregon. The anticipated upland placement sites include the South Port site located north of the CHS/TEMCO grain terminal at approximately RM 77 and the project site. Additional in-water and upland sites may be identified and permitted for dredge material placement for general Port maintenance dredging needs in the future.

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Dredging is a temporary construction activity, conducted in deep water, which would be expected to have only minor, localized, and temporary effects. No dredging would be conducted in shallow water habitats, and no shallow water habitat would be converted to deep water. Dredging operations maybe completed using either hydraulic or mechanical (clamshell) dredging methods. A hydraulic dredge uses a cutter head on the end of an arm that is buried typically 3 to 6 feet deep in the river bottom and swings in a 250- to 300-foot arc in front of the dredge. Dredge material is sucked up through the cutter head and the pipes, and deposited via pipeline to the placement areas. The hydraulic dredge will also be used for placement of dredge material in the flow-lane, as beach nourishment, or at approved upland sites.

A mechanical dredge removes material by scooping it up with a bucket. Mechanical dredges include clamshell, dragline, and backhoe dredges. Mechanical dredging is performed using a bucket operated from a crane or derrick that is mounted on a barge or operated from shore. Sediment from the bucket is usually placed directly in an upland area or on a scow or bottom dump (split) barge. In-water placement of the material occurs through opening the bottom doors or splitting the barge. The process of splitting will be tightly controlled to minimize turbidity and the spread of material outside the placement area.

Upland placement will likely be completed through the use of a hydraulic pipeline. In this method, dredged material is pumped as slurry through a pipeline that floats on the water using pontoons, is submerged, or runs across dry land. Dredged material transported by hydraulic pipeline to an upland management site must be dewatered prior to final placement or rehandling. In this case, dewatering generally will be accomplished using settling ponds or overland flow. Settling ponds are sized based on the settling characteristics of the dredged material and the rate of dredging. Water from the sediments will be either infiltrated to the ground or will be discharged to the river through weirs already constructed at the disposal sites.

Several BMPs and conservation measures will be implemented to minimize environmental impacts during dredging, and these are described in the application.

Compensatory Mitigation Activities

The applicant has incorporated mitigation activities as part of the proposed action. The applicant proposes three categories of activity: (1) Pile removal; (2) construction of engineered log jams (ELJ); and (3) riparian and wetland buffer habitat restoration.

The Applicant will remove a portion of a row of existing timber piles now located in the freshwater intertidal backwater channel portion of the project site on Port property. The structure is a former trestle, and these piles may be treated with creosote. Piles are estimated to range between 12 and 14 inches in diameter at the mudline. A total of approximately 157 piles will be removed from the structure. There is a second timber pile structure in the backwater, which was previously proposed for removal. This structure is a USACE-owned pile dike, and will not be removed.

The proposed pile removal will restore a minimum of 123 square feet of benthic habitat, within an area approximately 2.05 acres in size. These piles, in their current configuration, affect the movement of water and sediment into and out of approximately 13 acres of this backwater area (CHE 2015). The removal of the piles will facilitate sediment transport and seasonal flushing of this backwater area, which will help improve water quality and maintain this area as an off-channel refuge for juvenile salmonids in the long term. The piles most likely will be removed by direct pulling. A vibratory hammer may also be used if necessary, and this request assumes that either method could be used.

In addition to the proposed pile removals, the applicant will install eight ELJs within the nearshore habitat along the Columbia River shoreline adjacent to the site. ELJs are a restoration and mitigation method that helps build high quality fish habitat, develops scour pools, and provides complex cover.

Each ELJ will measure approximately 20 x 20 feet and be composed of large-diameter untreated logs, logs with root wads attached, small wood debris, and boulders. Logs generally will have a minimum diameter of 20-inches and be 20 feet long. They will be anchored to untreated wood piles driven a minimum of 20 feet into the river stream bed and will be fastened to the piles by drilling holes in the wood and inserting 1-inch through-bolts for attaching chains to secure the wood to the piles. The structures will be installed at or near the mean lower low water mark using vibratory pile driving at low tides, so that the structures are regularly inundated. The logs that comprise the structure will be further bolted together to create a complex crib structure with 2- to 3-inch interstitial spaces. These spaces may be filled with smaller wood debris and/or boulders to enhance structural complexity and capture free-floating wood from the Columbia River.

Small equipment operated from a barge will be used to construct the ELJs. Anchor piling will be installed either by a vibratory hammer, or will be pushed directly into the substrate with crane-mounted equipment. This request assumes that either method could be used. Logs and debris will be placed using crane-mounted equipment, or similar. Aquatic mitigation construction activities, including vibratory timber pile removal and installation of timber anchor piling outside of the wetted perimeter of the river, and would not generate levels of noise that would harass of marine mammals.

The Applicant also proposes to conduct riparian enhancement and invasive species management within an area approximately 1.41 acres in size along approximately 700 linear feet of the Columbia River shoreline at the site to further enhance riparian and shoreline habitat at the site. The applicant also proposes to enhance approximately 0.58 acres of wetland buffer at the north end of the site to offset unavoidable wetland buffer impacts. The riparian and wetland buffer habitats will be enhanced by removing invasive species and installing native trees and shrubs that are common to this reach of the Columbia River shoreline and adjacent wetlands. Native plantings proposed for the riparian restoration include black cottonwood and a mix of native willow species including Columbia River willow (*Salix fluviatilis*), Pacific willow (*Salix lasiandra*), and Sitka willow (*Salix sitchensis*). Portions of the wetland buffer will be planted with black cottonwood. Invasive species management at the site will target locally common and aggressive invasive weed species, primarily Scotch broom and Himalayan blackberry (*Rubus armeniacus*). The restoration sites will be monitored and maintained for 5 years to document proper site establishment.

Aquatic habitat mitigation construction activities will most likely be conducted using cranes and similar equipment operated from one or more barges temporarily located within the backwater area. Because water depths are relatively shallow in the backwater area where pile removal will be conducted, equipment access to this area may be limited. A small barge will most likely be floated in on a high tide, grounding out if necessary as waters recede. Benthic habitats and native plant communities are not expected to be affected by the barge, as substrates are silt-dominated, and vegetation consists primarily of reed canary grass. If necessary, disturbed areas will be restored to their original or an improved condition after pile removal is complete.

Description of Marine Mammals in the Area of the Specified Activity

Marine mammal species that have been observed within the region of activity consist of the harbor seal, California sea lion, and Steller sea lion. Pinnipeds follow prey species into freshwater up to, primarily, the Bonneville Dam (RM 146) in the Columbia River, but also to Willamette Falls in the Willamette River (RM 26). None of the species of marine mammal that occur in the project area are listed

under the ESA or is considered depleted or strategic under the MMPA.

TABLE 1—MARINE MAMMAL SPECIES ADDRESSED IN THIS IHA REQUEST

Species		ESA Listing status	Stock
Common name	Scientific name		
Harbor Seal	*Phoca vitulina;* ssp. *richardsi*	Not Listed	OR/WA Coast Stock.
California Sea Lion	*Zalophus californianus*	Not Listed	U.S. Stock.
Steller Sea Lion	*Eumatopius jubatus*	Not Listed	Eastern DPS.

The sea lion species use this portion of the river primarily for transiting to and from Bonneville Dam, which concentrates adult salmonids and sturgeon returning to natal streams, providing for increased foraging efficiency. The U.S. Army Corps of Engineers (USACE) has conducted surface observations to evaluate the seasonal presence, abundance, and predation activities of pinnipeds in the Bonneville Dam tailrace each year since 2002. This monitoring program was initiated in response to concerns over the potential impact of pinniped predation on adult salmonids passing Bonneville Dam in the spring. An active sea lion hazing, trapping, and permanent removal program was in place below the dam from 2008 through 2013.

Pinnipeds remain in upstream locations for a couple of days or longer, feeding heavily on salmon, steelhead, and sturgeon, although the occurrence of harbor seals near Bonneville Dam is much lower than sea lions (Stansell et al. 2013). Sea lions congregate at Bonneville Dam during the peaks of salmon return, from March through May each year, and a few California sea lions have been observed feeding on salmonids in the area below Willamette Falls during the spring adult fish migration.

There are no pinniped haul-out sites in the area of potential effects from the proposed project. The nearest haul-out sites, shared by harbor seals and California sea lions, are near the Cowlitz River/Carroll Slough confluence with the Columbia River, approximately 3.5 miles downriver from the proposed project (Jeffries et al. 2000). The nearest known haul-out for Steller sea lions is a rock formation (Phoca Rock) near RM 132 and the jetty (RM 0) near the mouth of the Columbia River. There are no pinniped rookeries located in or near the region of activity.

Harbor Seal

Species Description

Harbor seals, which are members of the Phocid family (true seals), inhabit coastal and estuarine waters and shoreline areas from Baja California, Mexico to western Alaska. For management purposes, differences in mean pupping date (*i.e.* birthing), movement patterns, pollutant loads, and fishery interactions have led to the recognition of three separate harbor seal stocks along the west coast of the continental U.S. (Boveng 1988). The three distinct stocks are: (1) Inland waters of Washington (including Hood Canal, Puget Sound, and the Strait of Juan de Fuca out to Cape Flattery), (2) outer coast of Oregon and Washington, and (3) California (Carretta et al. 2014). The seals in the region of activity are from the outer coast of Oregon and Washington stock.

The average weight for adult seals is about 180 lb (82 kg) and males are slightly larger than females. Male harbor seals weigh up to 245 lb (111 kg) and measure approximately 5 ft (1.5 m) in length. The basic color of harbor seals' coat is gray and mottled but highly variable, from dark with light color rings or spots to light with dark markings.

Status

In 1999, the population of the Oregon/Washington coastal stock of harbor seals was estimated at 24,732 animals (Carretta et al. 2014). Although this abundance estimate represents the best scientific information available, per NOAA Fisheries stock assessment policy it is not considered current because it is more than 8 years old. This harbor seal stock includes coastal estuaries (Columbia River) and bays (Willapa Bay and Grays Harbor). Both the Washington and Oregon portions of this stock are believed to have reached carrying capacity and the stock is within its optimum sustainable population level (Jeffries et al. 2003; Brown et al. 2005). Because there is no current estimate of minimum abundance, potential biological removal (PBR) cannot be calculated for this stock. However, the level of human-caused mortality and serious injury is less than ten percent of the previous PBR of 1,343 harbor seals per year (Carretta et al. 2014), and human-caused mortality is considered to be small relative to the stock size. Therefore, the Oregon and Washington outer coast stock of harbor seals are not classified as a strategic stock under the MMPA.

Behavior and Ecology

Harbor seals are generally non-migratory with local movements associated with such factors as tides, weather, season, food availability, and reproduction (Bigg 1981). They are not known to make extensive pelagic migrations, although some long distance movement of tagged animals in Alaska (174 km), and along the U.S. west coast (up to 550 km), have been recorded. Harbor seals are coastal species, rarely found more than 12 mi (20 km) from shore, and frequently occupy bays, estuaries, and inlets (Baird 2001). Individual seals have been observed several miles upstream in coastal rivers. Ideal harbor seal habitat includes haul-out sites, shelter during the breeding periods, and sufficient food (Bigg 1981).

Harbor seals haul out on rocks, reefs, beaches, and ice and feed in marine, estuarine, and occasionally fresh waters. Harbor seals display strong fidelity for haul-out sites (Pitcher and Calkins 1979; Pitcher and McAllister1981), although human disturbance can affect haul-out choice (Harris et al. 2003). Group sizes range from small numbers of animals on intertidal rocks to several thousand animals found seasonally in coastal estuaries. The harbor seal is the most commonly observed and widely distributed pinniped found in Oregon and Washington. Harbor seals use hundreds of sites to rest or haul out along the coast and inland waters of Oregon and Washington, including tidal sand bars and mudflats in estuaries, intertidal rocks and reefs, beaches, log booms, docks, and floats in all marine areas of the two states. Numerous harbor seal haul-out sites are found on intertidal mudflats and sand bars from the mouth of the lower Columbia River to Carroll Slough at the confluence of the Cowlitz and Columbia Rivers.

Harbor seals mate at sea and females give birth during the spring and summer, although the pupping season varies by latitude. Pupping seasons vary by geographic region with pups born in coastal estuaries (Columbia River, Willapa Bay, and Grays Harbor) from mid-April through June and in other areas along the Olympic Peninsula and Puget Sound from May through September (Jeffries et al. 2000). Suckling harbor seal pups spend as much as forty percent of their time in the water (Bowen et al. 1999).

Adult harbor seals can be found throughout the year at the mouth of the Columbia River. Peak harbor seal abundances in the Columbia River occur during the winter and spring when a number of upriver haul-out sites are used. Peak abundances and upriver movements in the winter and spring months are correlated with spawning runs of eulachon (*Thaleichthys pacificus*) smelt and out-migration of salmonid smolts.

Within the region of activity, there are no known harbor seal haul-out sites. The nearest known haul-out sites to the region of activity are located at Carroll Slough at the confluence of the Cowlitz and Columbia Rivers approximately 3.5 mi (72 km) downriver of the region of activity. The low number of observations of harbor seals at Bonneville Dam over the years, combined with the fact that no pupping or haul-out locations are within or upstream from the region of activity, suggest that very few harbor seals transit through the region of activity (Stansell et al. 2013).

Acoustics

In air, harbor seal males produce a variety of low-frequency (less than 4 kHz) vocalizations, including snorts, grunts, and growls. Male harbor seals produce communication sounds in the frequency range of 100–1,000 Hz (Richardson et al. 1995). Pups make individually unique calls for mother recognition that contain multiple harmonics with main energy below 0.35 kHz (Bigg 1981). Harbor seals hear nearly as well in air as underwater and have lower thresholds than California sea lions (Kastak and Schusterman 1998). Kastak and Schusterman (1998) reported airborne low frequency (100 Hz) sound detection thresholds at 65 dB for harbor seals. In air, they hear frequencies from 0.25–30 kHz and are most sensitive from 6–16 kHz (Wolski et al. 2003).

Adult males also produce underwater sounds during the breeding season that typically range from 0.25–4 kHz (duration range: 0.1 s to multiple seconds; Hanggi and Schusterman 1994). Hanggi and Schusterman (1994) found that there is individual variation in the dominant frequency range of sounds between different males, and Van Parijs et al. (2003) reported oceanic, regional, population, and site-specific variation that could be vocal dialects. In water, they hear frequencies from 1–75 kHz (Southall et al. 2007) and can detect sound levels as weak as 60–85 dB within that band. They are most sensitive at frequencies below 50 kHz; above 60 kHz sensitivity rapidly decreases.

California Sea Lions

Species Description

California sea lions are members of the Otariid family (eared seals). The breeding areas of the California sea lion are on islands located in southern California, western Baja California, and the Gulf of California (Carretta et al. 2014). These three geographic regions are used to separate this subspecies into three stocks: (1) The U.S. stock begins at the U.S./Mexico border and extends northward into Canada, (2) the Western Baja California stock extends from the U.S./Mexico border to the southern tip of the Baja California peninsula, and (3) the Gulf of California stock which includes the Gulf of California from the southern tip of the Baja California peninsula and across to the mainland and extends to southern.

The California sea lion is sexually dimorphic. Males may reach 1,000 lb (454 kg) and 8 ft (2.4 m) in length; females grow to 300 lb (136 kg) and 6 ft (1.8 m) in length. Their color ranges from chocolate brown in males to a lighter, golden brown in females. At around 5 years of age, males develop a bony bump on top of the skull called a sagittal crest. The crest is visible in the dog-like profile of male sea lion heads, and hair around the crest gets lighter with age. Status—The U.S. stock of California sea lions is estimated at 296,750 and the minimum population size of this stock is 153,337 individuals (Carretta et al. 2014). The current estimate of human induced mortality for California sea lions is on average 431 animals per year (Carretta et al. 2014). California sea lions are not considered a strategic stock under the MMPA because total human-caused mortality is still very likely to be less than the PBR of 9200 animals per year (Carretta et al. 2014).

Behavior and Ecology

During the summer, the U.S. stock of California sea lions breed on the primary rookeries on the Channel Islands, and seldom travel more than about 31 mi (50 km) from the islands (Carretta et al. 2014). Their distribution shifts to the northwest in fall and to the southeast during winter and spring, probably in response to changes in prey availability (Bonnell and Ford 1987). The non-breeding distribution extends from Baja California north to Alaska for males, and encompasses the waters of California and Baja California for females (Carretta et al. 2014). In the non-breeding season, an estimated 3,000 to 5,000 adult and sub-adult males migrate northward along the coast to central and northern California, Oregon, Washington, and Vancouver Island from September to May (Jeffries et al. 2000) and return south the following spring.

California sea lions do not breed in the Columbia River. Though a few young animals may remain in Oregon during summer months, most return south for the breeding season (ODFW, 2015). Male California sea lions are commonly seen in Oregon from September through May. During this time period California sea lions can be found in many bays, estuaries and on offshore sites along the coast, often hauled-out in the same locations as Steller sea lions. Some pass through Oregon to feed along coastal waters to the north during fall and winter months.

California sea lions feed on a wide variety of prey, including many species of fish and squid. In some locations where salmon runs exist, California sea lions also feed on returning adult and out-migrating juvenile salmonids. Sexual maturity occurs at around 4–5 years of age for California sea lions. California sea lions are gregarious during the breeding season and social on land during other times.

California sea lions are known to occur in several areas of the Columbia River during much of the year, except the summer breeding months of June through August. Approximately 1,000 California sea lions have been observed at haul-out sites at the mouth of the Columbia River, while approximately 100 individuals have been observed in past years at the Bonneville Dam between January and May prior to returning to their breeding rookeries in California at the end of May (Stansell et al. 2013). The nearest known haul-out sites to the region of activity are near the Cowlitz River/Carroll Slough confluence with the Columbia River, approximately 3.5 miles downriver of the proposed action (Jeffries et al. 2000).

The USACE's intensive sea lion monitoring program began as a result of the 2000 Federal Columbia River Power System (FCRPS) biological opinion, which required an evaluation of

pinniped predation in the tailrace of Bonneville Dam. The objective of the study was to determine the timing and duration of pinniped predation activity, estimate the number of fish caught, record the number of pinnipeds present, identify and track individual California sea lions, and evaluate various pinniped deterrents used at the dam (Tackley et al. 2008). The study period for monitoring was January 1 through May 31, beginning in 2002. During the study period, pinniped observations began after consistent sightings of at least one animal occurred. Tackley et al. (2008) note that sightings began earlier each year from 2002 to 2004. Although some sightings were reported earlier in the season, full-time observations began March 21 in 2002, March 3 in 2003, and February 24 in 2004 (Tackley et al. 2008). In 2005 observations began in April, but in 2006 through 2012 observations began in January or early February (Tackley et al. 2008; Stansell et al. 2013). In 2012, 39 California sea lions were observed at Bonneville Dam, the fewest since 2002 (Stansell et al. 2013). However, in 2010, 89 California sea lion individuals were observed at Bonneville Dam (Stansell et al. 2013).

California sea lion daily abundance estimates at Bonneville Dam are compiled in Stansell et al. (2013, Figure 1) from the reports listed in the preceding paragraph. If arrival and departure dates were not available, the timing of surface observations within the January through May study period were recorded. Because regular observations in the study period generally began as California sea lions were observed below Bonneville Dam, and sometimes reports stated that observations stopped as sea lion numbers dropped, the observation dates only give a general idea of first arrival and departure. Because tracking data indicate that sea lions travel at fast rates between hydrophone locations above and below the POK project area, dates of first arrival at Bonneville Dam and departure from the dam are assumed to coincide closely with potential passage timing through the POK project area.

Based on the information presented in Stansell et al. (2013), California sea lions have generally been observed at Bonneville Dam between early January and early June, although beginning in 2008, a few individuals have been noted at the dam as early as September and as late as August. Therefore, the majority of California sea lions are expected to pass the project site beginning in early January through early June. Stansell et al. (2013) shows that California sea lion abundance below Bonneville Dam peaks in April, when it drops through about the end of May. Wright et al. (2010) reported a median start date for the southbound migration from the Columbia River to the breeding grounds of May 20 (range: May 7 to May 27; n = 8 sea lions).

The highest number of California sea lions observed in the Bonneville Dam tailrace over the last 9 years was 104 in 2003 (Stansell et al. 2013). However, Tackley et al. (2008) noted that numbers of sea lions estimated from early study years were likely underestimated, because the observers' ability to uniquely identify individuals increased over the years. In addition, the high number of 104 individuals present below the dam in 2003 occurred prior to hazing (2005) or permanent removal (2008) activities began. The high after both hazing and removal programs were implemented has been 89 individuals in a year in 2010 (Stansell et al. 2013).

Acoustics

On land, California sea lions make incessant, raucous barking sounds; these have most of their energy at less than 2 kHz (Schusterman and Balliet 1969). Males vary both the number and rhythm of their barks depending on the social context; the barks appear to control the movements and other behavior patterns of nearby conspecifics (Schusterman, 1977). Females produce barks, squeals, belches, and growls in the frequency range of 0.25–5 kHz, while pups make bleating sounds at 0.25–6 kHz. California sea lions produce two types of underwater sounds: Clicks (or short-duration sound pulses) and barks (Schusterman and Balliet 1969). All of these underwater sounds have most of their energy below 4 kHz (Schusterman and Balliet 1969).

The range of maximal hearing sensitivity for California sea lions underwater is between 1–28 kHz (Schusterman et al. 1972). Functional underwater high frequency hearing limits are between 35–40 kHz, with peak sensitivities from 15–30 kHz (Schusterman et al. 1972). The California sea lion shows relatively poor hearing at frequencies below 1 kHz (Kastak and Schusterman 1998). Peak hearing sensitivities in air are shifted to lower frequencies; the effective upper hearing limit is approximately 36 kHz (Schusterman, 1974). The best range of sound detection is from 2–16 kHz (Schusterman, 1974). Kastak and Schusterman (2002) determined that hearing sensitivity generally worsens with depth—hearing thresholds were lower in shallow water, except at the highest frequency tested (35 kHz), where this trend was reversed. Octave band sound levels of 65–70 dB above the animal's threshold produced an average temporary threshold shift (TTS; discussed later in Potential Effects of the Specified Activity on Marine Mammals) of 4.9 dB in the California sea lion (Kastak et al. 1999).

Steller Sea Lions

Species Description

Steller sea lions are the largest members of the Otariid (eared seal) family. Steller sea lions show marked sexual dimorphism, in which adult males are noticeably larger and have distinct coloration patterns from females. Males average approximately 1,500 lb (680 kg) and 10 ft (3 m) in length; females average about 700 lb (318 kg) and 8 ft (2.4 m) in length. Adult females have a tawny to silver-colored pelt. Males are characterized by dark, dense fur around their necks, giving a mane-like appearance, and light tawny coloring over the rest of their body. Steller sea lions are distributed mainly around the coasts to the outer continental shelf along the North Pacific Ocean rim from northern Hokkaido, Japan through the Kuril Islands and Okhotsk Sea, Aleutian Islands and central Bering Sea, southern coast of Alaska and south to California. The population is divided into the Western and the Eastern Distinct Population Segments (DPSs) at 144° W (Cape Suckling, Alaska). The Western DPS includes Steller sea lions that reside in the central and western Gulf of Alaska, Aleutian Islands, as well as those that inhabit coastal waters and breed in Asia (*e.g.* Japan and Russia). The Eastern DPS extends from California to Alaska, including the Gulf of Alaska.

Status

Steller sea lions were listed as threatened range-wide under the ESA in 1990. After genetics work identified strong genetic separation between two distinct populations (Allen and Angliss 2015), the species was divided into two stocks, with the western stock listed as endangered under the ESA in 1997 with the eastern stock remaining listed as threatened. After receiving a petition for delisting, NOAA Fisheries evaluated the eastern stock and found it suitable for delisting, which was completed in 2013. However, the eastern stock of Steller sea lions is still considered depleted under the MMPA. Animals found in the region of activity are from the eastern stock. The eastern stock breeds in rookeries located in southeast Alaska, British Columbia, Oregon, and California; there are no rookeries located in Washington or in the Columbia River (Allen and Angliss 2015).

The abundance of the Eastern DPS of Steller sea lions is increasing throughout the northern portion of its range (Southeast Alaska and British Columbia), and stable or increasing slowly in the central portion (Oregon through central California). In the southern end of its range (Channel Islands in southern California), it has declined significantly since the late 1930s, and several rookeries and haul-outs have been abandoned (Allen and Angliss 2015). The most recent stock assessment report estimated the population for Steller sea lions to be between 60,131 and 74,448 animals (Allen and Angliss 2015). This stock has been increasing approximately four percent per year over the entire range since the late 1970s (Allen and Angliss 2015). The most recent minimum population estimate for the eastern stock is 59,968 individuals, with actual population estimated to be within the range 58,334 to 72,223 (Allen and Angliss 2015).

Behavior and Ecology

Steller sea lions forage near shore and in pelagic waters. They are capable of traveling long distances in a season and can dive to approximately 1,300 ft (400 m) in depth. They also use terrestrial habitat as haul-out sites for periods of rest, molting, and as rookeries for mating and pupping during the breeding season. At sea, they are often seen alone or in small groups, but may gather in large rafts at the surface near rookeries and haul-outs. Steller sea lions prefer the colder temperate to sub-arctic waters of the North Pacific Ocean. Haul-outs and rookeries usually consist of beaches (gravel, rocky or sand), ledges, and rocky reefs. In the Bering and Okhotsk Seas, sea lions may also haul-out on sea ice, but this is considered atypical behavior.

Steller sea lions are gregarious animals that often travel or haul out in large groups of up to 45 individuals (Keple 2002). At sea, groups usually consist of female and subadult males; adult males are usually solitary while at sea (Loughlin 2002). In the Pacific Northwest, breeding rookeries are located in British Columbia, Oregon, and northern California. Steller sea lions form large rookeries during late spring when adult males arrive and establish territories (Pitcher and Calkins 1979). Large males aggressively defend territories while non-breeding males remain at peripheral sites or haul-outs. Females arrive soon after and give birth. Most births occur from mid-May through mid-July, and breeding takes place shortly thereafter. Most pups are weaned within a year. Non-breeding individuals may not return to rookeries during the breeding season but remain at other coastal haul-outs (Scordino 2006).

Steller sea lions are opportunistic predators, feeding primarily on fish and cephalopods, and their diet varies geographically and seasonally. Foraging habitat is primarily shallow, nearshore and continental shelf waters; freshwater rivers; and also deep waters (Scordino, 2010).

In Oregon, Steller sea lions are found on offshore rocks and islands. Most of these haul-out sites are part of the Oregon Islands National Wildlife Refuge and are closed to the public. Oregon is home to the largest breeding site in U.S. waters south of Alaska, with breeding areas at Three Arch Rocks (Oceanside), Orford Reef (Port Orford), and Rogue Reef (Gold Beach). Steller sea lions are also found year-round in smaller numbers at Sea Lion Caves and at Cape Arago State Park.

Although Steller sea lions occur primarily in coastal habitat in Oregon and Washington, they are present year-round in the lower Columbia River, usually downstream of the confluence of the Cowlitz River. However, adult and subadult male Steller sea lions have been observed at Bonneville Dam, where they prey primarily on sturgeon and salmon that congregate below the dam. In 2002, the USACE began monitoring seasonal presence, abundance, and predation activities of marine mammals in the Bonneville Dam tailrace (Stansell et al. 2013). Steller sea lions have been documented every year since 2003; observations have steadily increased to maximum of 89 Steller sea lions in 2011 (Stansell et al. 2013).

Steller sea lions use the Columbia River for travel, foraging, and resting as they move between haul-out sites and the dam. There are no known haul-out sites within the portions of the region of activity occurring in the Columbia River. The nearest known haul-out in the Columbia River is a rock formation (Phoca Rock) approximately 8 miles downstream of Bonneville Dam (approximately 66 miles upstream from the project site). Steller sea lions are also known to haul out on the south jetty at the mouth of the Columbia River, near Astoria, Oregon. There are no rookeries located in or near the region of activity. The nearest Steller sea lion rookery is on the northern Oregon coast at Oceanside (ODFW, 2015), approximately 70 miles south of Astoria, *i.e.* more than 150 milies from the region of activity.

Steller sea lions arrive at the dam in late fall (Tackley et al. 2008), although occasionally individuals are sighted near Bonneville Dam in the months of September, October, and November (Stansell et al. 2013). Steller sea lions are present at the dam through May, and can travel between the dam and the mouth of the Columbia River several times during these months (Tackley et al. 2008). Stansell et al. (2013) shows the average abundance of pinnipeds at the Bonneville Dam, showing peak abundance during April. Because tracking data indicate that sea lions travel at fast rates between hydrophone locations above and below the POK project area (Brown et al. 2010), dates of first arrival at Bonneville Dam and departure from the dam are assumed to coincide closely with potential passage timing through the project area.

Steller sea lions are expected to pass the project site beginning with a few individuals as early as September and most individuals in January through early June. Stansell et al. (2013) show that Steller sea lion abundance below Bonneville Dam increases through approximately mid-April, and then drops through about the end of May.

Acoustics

Like all pinnipeds, the Steller sea lion is amphibious; while all foraging activity takes place in the water, breeding behavior is carried out on land in coastal rookeries. On land, territorial male Steller sea lions regularly use loud, relatively low-frequency calls/roars to establish breeding territories (Loughlin et al. 1987). The calls of females range from 0.03 to 3 kHz, with peak frequencies from 0.15 to 1 kHz; typical duration is 1.0 to 1.5 sec (Campbell et al. 2002). Pups also produce bleating sounds. Individually distinct vocalizations exchanged between mothers and pups are thought to be the main modality by which reunion occurs when mothers return to crowded rookeries following foraging at sea (Campbell et al. 2002).

Mulsow and Reichmuth (2010) measured the unmasked airborne hearing sensitivity of one male Steller sea lion. The range of best hearing sensitivity was between 5 and 14 kHz. Maximum sensitivity was found at 10 kHz, where the subject had a mean threshold of 7 dB. The underwater hearing threshold of a male Steller sea lion was significantly different from that of a female. The peak sensitivity range for the male was from 1 to 16 kHz, with maximum sensitivity (77 dB re: 1μPa-m) at 1 kHz. The range of best hearing for the female was from 16 to above 25 kHz, with maximum sensitivity (73 dB re: 1μPa-m) at 25 kHz. However, because of the small number of animals tested, the findings could not be attributed to either

individual differences in sensitivity or sexual dimorphism (Kastelein et al. 2005).

Sound Primer

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in hertz (Hz) or cycles per second. Wavelength is the distance between two peaks 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. Rms is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average. Rms accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units than by peak pressures.

Sound exposure level (SEL; represented as dB re 1 μPa2-s) represents the total energy contained within a pulse, and considers both intensity and duration of exposure. For a single pulse, the numerical value of the SEL measurement is usually 5–15 dB lower than the rms sound pressure in dB re 1 μPa, with the comparative difference between measurements of rms and SEL measurements often tending to decrease with increasing range (Greene 1997). Peak sound pressure 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 (p-p), 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 (as for the sources considered here) or may radiate in all directions (omnidirectional sources). The compressions and decompressions associated with sound waves are detected as changes in pressure by aquatic life and man-made sound receptors such as hydrophones.

Even in the absence of sound from the specified activity, the underwater environment is typically loud due to ambient sound. Ambient sound is defined as environmental background sound levels lacking a single source or point (Richardson et al. 1995), and the sound level of a region is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.* waves, earthquakes, ice, atmospheric sound), biological (*e.g.* sounds produced by marine mammals, fish, and invertebrates), and anthropogenic (*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 (Mitson1995). 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 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 the specified 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.* explosions, gunshots, sonic booms, impact pile

driving) produce signals that are brief (typically considered to be less than one second), broadband, atonal transients 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. 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.

When considering the influence of various kinds of sound on the marine environment, it is necessary to understand that different kinds of marine life are sensitive to different frequencies of sound. Based on available behavioral data, audiograms have been derived using auditory evoked potentials, anatomical modeling, and other data, Southall et al. (2007) designate ''functional hearing groups'' for marine mammals and estimate the lower and upper frequencies of functional hearing of the groups. The functional groups and the associated frequencies are indicated below (though animals are less sensitive to sounds at the outer edge of their functional range and most sensitive to sounds of frequencies within a smaller range somewhere in the middle of their functional hearing range):

—Phocid pinnipeds in-water: Functional hearing is estimated to occur between approximately 75 Hz and 100 kHz; and

—Otariid pinnipeds in-water: Functional hearing is estimated to occur between approximately 100 Hz and 40 kHz.

As mentioned previously in this document, 3 marine mammal pinniped species are likely to occur in the proposed project area. The affected pinniped species will be considered as a functional group using the greatest range of hearing characteristics (75Hz to 100kHz) for the purpose of analyzing the effects of exposure to sound on marine mammals.

Potential Effects of the Specified Activity on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that pile driving and dredging components of the specified activity, including mitigation may impact marine mammals and their habitat. The ''Estimated Take by Incidental Harassment'' section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis'' section will include the analysis of how this specific activity will impact marine mammals and will consider the content of this section, the ''Estimated Take by Incidental Harassment'' section and the ''Monitoring and Mitigation'' section to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals and from that on the affected marine mammal populations or stocks.

Acoustic Impacts

Marine mammals transiting the project location when construction activities are occurring may be exposed to increased sound energy levels that could result in take by Level B harassment. No take by Level A harassment, injury, or mortality is expected from the project. POK's in-water construction and demolition activities (*e.g.* pile driving and removal) introduce sound into the marine environment, and have the potential to have adverse impacts on marine mammals. The potential effects of sound from the proposed activities associated with the POK project may include one or more of the following: Tolerance; masking of natural sounds; behavioral disturbance; non-auditory physical effects; and temporary or permanent hearing impairment (Richardson et al. 1995). However, for reasons discussed later in this document, it is unlikely that there would be any cases of temporary or permanent hearing impairment resulting from these activities. As outlined in previous NOAA Fisheries documents, the effects of sound on marine mammals are highly variable, and can be categorized as follows (based on Richardson et al. 1995):

—The sound may be too weak to be heard at the location of the animal (*i.e.* lower than the prevailing ambient sound level, the hearing threshold of the animal at relevant frequencies, or both);

—The sound may be audible but not strong enough to elicit any overt behavioral response;

—The sound may elicit reactions of varying degrees and variable relevance to the well-being of the marine mammal; these can range from temporary alert responses to active avoidance reactions such as vacating an area until the stimulus ceases, but potentially for longer periods of time;

—Upon repeated exposure, a marine mammal may exhibit diminishing responsiveness (habituation), or disturbance effects may persist; the latter is most likely with sounds that are highly variable in characteristics and unpredictable in occurrence, and associated with situations that a marine mammal perceives as a threat;

—Any anthropogenic sound that is strong enough to be heard has the potential to result in masking, or reduce the ability of a marine mammal to hear biological sounds at similar frequencies, including calls from conspecifics and underwater environmental sounds such as surf sound;

—If mammals remain in an area because it is important for feeding, breeding, or some other biologically important purpose even though there is chronic exposure to sound, it is possible that there could be sound-induced physiological stress; this might in turn have negative effects on the well-being or reproduction of the animals involved; and

—Very strong sounds have the potential to cause a temporary or permanent reduction in hearing sensitivity, also referred to as threshold shift. In terrestrial mammals, and presumably marine mammals, received sound levels must far exceed the animal's hearing threshold for there to be any temporary threshold shift (TTS). For transient sounds, the sound level necessary to cause TTS is inversely related to the duration of the sound. Received sound levels must be even higher for there to be risk of permanent hearing impairment (PTS). In addition, intense acoustic or explosive events may cause trauma to tissues associated with organs vital for hearing, sound production, respiration and other functions. This trauma may include minor to severe hemorrhage.

Tolerance

Numerous studies have shown that underwater sounds from industrial activities are often readily detectable by marine mammals in the water at

distances of many kilometers. However, other studies have shown that marine mammals at distances more than a few kilometers away often show no apparent response to industrial activities of various types (Miller et al. 2005). This is often true even in cases when the sounds must be readily audible to the animals based on measured received levels and the hearing sensitivity of that mammal group. Although various baleen whales, toothed whales, and (less frequently) pinnipeds have been shown to react behaviorally to underwater sound from sources such as airgun pulses or vessels under some conditions, at other times, mammals of all three types have shown no overt reactions. In general, pinnipeds seem to be more tolerant of exposure to some types of underwater sound than are baleen whales. Richardson et al. (1995) found that vessel sound does not seem to strongly affect pinnipeds that are already in the water. Richardson et al. (1995) went on to explain that seals on haul-outs sometimes respond strongly to the presence of vessels and at other times appear to show considerable tolerance of vessels.

Masking

Masking is the obscuring of sounds of interest to an animal by other sounds, typically at similar frequencies. Marine mammals are highly dependent on sound, and their ability to recognize sound signals amid other sound is important in communication and detection of both predators and prey. Background ambient sound may interfere with or mask the ability of an animal to detect a sound signal even when that signal is above its absolute hearing threshold. Even in the absence of anthropogenic sound, the marine environment is often loud. Natural ambient sound includes contributions from wind, waves, precipitation, other animals, and (at frequencies above 30 kHz) thermal sound resulting from molecular agitation (Richardson et al. 1995).

Background sound may also include anthropogenic sound, and masking of natural sounds can result when human activities produce high levels of background sound. Conversely, if the background level of underwater sound is high (*e.g.* on a day with strong wind and high waves), an anthropogenic sound source would not be detectable as far away as would be possible under quieter conditions and would itself be masked. Ambient sound is highly variable on continental shelves. This results in a high degree of variability in the range at which marine mammals can detect anthropogenic sounds.

Although masking is a phenomenon which may occur naturally, the introduction of loud anthropogenic sounds into the marine environment at frequencies important to marine mammals increases the severity and frequency of occurrence of masking. For example, if a baleen whale is exposed to continuous low-frequency sound from an industrial source, this would reduce the size of the area around that whale within which it can hear the calls of another whale. The components of background noise that are similar in frequency to the signal in question primarily determine the degree of masking of that signal. In general, little is known about the degree to which marine mammals rely upon detection of sounds from conspecifics, predators, prey, or other natural sources. In the absence of specific information about the importance of detecting these natural sounds, it is not possible to predict the impact of masking on marine mammals (Richardson et al. 1995). In general, masking effects are expected to be less severe when sounds are transient than when they are continuous. Masking is typically of greater concern for those marine mammals that utilize low frequency communications, such as baleen whales and, as such, is not likely to occur for pinnipeds in the region of activity.

Disturbance

Behavioral disturbance is one of the primary potential impacts of anthropogenic sound on marine mammals. Disturbance can result in a variety of effects, such as subtle or dramatic changes in behavior or displacement, but the degree to which disturbance causes such effects may be highly dependent upon the context in which the stimulus occurs. For example, an animal that is feeding may be less prone to disturbance from a given stimulus than one that is not. For many species and situations, there is no detailed information about reactions to sound.

Behavioral reactions of marine mammals to sound are difficult to predict because they are dependent on numerous factors, including species, maturity, experience, activity, reproductive state, time of day, and weather. If a marine mammal does react to an underwater sound by changing its behavior or moving a small distance, the impacts of that change may not be important to the individual, the stock, or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on the animals could be important. In general, pinnipeds seem more tolerant of, or at least habituate more quickly to, potentially disturbing underwater sound than do cetaceans, and generally seem to be less responsive to exposure to industrial sound than most cetaceans. Pinniped responses to underwater sound from some types of industrial activities such as seismic exploration appear to be temporary and localized (Harris et al. 2001; Reiser et al. 2009).

Because the few available studies show wide variation in response to underwater and airborne sound, it is difficult to quantify exactly how pile driving sound would affect pinnipeds. The literature shows that elevated underwater sound levels could prompt a range of effects, including no obvious visible response, or behavioral responses that may include annoyance and increased alertness, visual orientation towards the sound, investigation of the sound, change in movement pattern or direction, habituation, alteration of feeding and social interaction, or temporary or permanent avoidance of the area affected by sound. Minor behavioral responses do not necessarily cause long-term effects to the individuals involved. Severe responses include panic, immediate movement away from the sound, and stampeding, which could potentially lead to injury or mortality (Southall et al. 2007). Stampeding is not expected to occur because there are no haulouts that will be affected by the proposed action.

Southall et al. (2007) reviewed literature describing responses of pinnipeds to non-pulsed sound in water and reported that the limited data suggest exposures between approximately 90 and 140 dB generally do not appear to induce strong behavioral responses in pinnipeds, while higher levels of pulsed sound, ranging between 150 and 180 dB, will prompt avoidance of an area. It is important to note that among these studies, there are some apparent differences in responses between field and laboratory conditions. In contrast to the mid-frequency odontocetes, captive pinnipeds responded more strongly at lower levels than did animals in the field. Again, contextual issues are the likely cause of this difference. For airborne sound, Southall et al. (2007) note there are extremely limited data suggesting very minor, if any, observable behavioral responses by pinnipeds exposed to airborne pulses of 60 to 80 dB; however, given the paucity of data on the subject, we cannot rule out the possibility that avoidance of

sound in the region of activity could occur.

In their comprehensive review of available literature, Southall et al. (2007) noted that quantitative studies on behavioral reactions of pinnipeds to underwater sound are rare. A subset of only three studies observed the response of pinnipeds to multiple pulses of underwater sound (a category of sound types that includes impact pile driving), and were also deemed by the authors as having results that are both measurable and representative. However, a number of studies not used by Southall et al. (2007) provide additional information, both quantitative and anecdotal, regarding the reactions of pinnipeds to multiple pulses of underwater sound.

—Harris et al. (2001) observed the response of ringed, bearded (*Erignathus barbatus*), and spotted seals (*Phoca largha*) to underwater operation of a single air gun and an eleven-gun array. Received exposure levels were 160 to 200 dB. Results fit into two categories. In some instances, seals exhibited no response to sound. However, the study noted significantly fewer seals during operation of the full array in some instances. Additionally, the study noted some avoidance of the area within 150 m of the source during full array operations.

—Blackwell et al. (2004) is the only cited study directly related to pile driving. The study observed ringed seals during impact installation of steel pipe pile. Received underwater SPLs were measured at 151 dB at 63 m. The seals exhibited either no response or only brief orientation response (defined as ''investigation or visual orientation''). It should be noted that the observations were made after pile driving was already in progress. Therefore, it is possible that the low-level response was due to prior habituation.

—Miller et al. (2005) observed responses of ringed and bearded seals to a seismic air gun array. Received underwater sound levels were estimated at 160 to 200 dB. There were fewer seals present close to the sound source during air gun operations in the first year, but in the second year the seals showed no avoidance. In some instances, seals were present in very close range of the sound. The authors concluded that there was ''no observable behavioral response'' to seismic air gun operations.

—During a Caltrans installation demonstration project for retrofit work on the East Span of the San Francisco Oakland Bay Bridge, California, sea lions responded to pile driving by swimming rapidly out of the area, regardless of the size of the pile-driving hammer or the presence of sound attenuation devices (74 FR 63724; December 4, 2009).

—Jacobs and Terhune (2002) observed harbor seal reactions to acoustic harassment devices (AHDs) with source level of 172 dB deployed around aquaculture sites. Seals were generally unresponsive to sounds from the AHDs. During two specific events, individuals came within 141 and 144 ft (43 and 44 m) of active AHDs and failed to demonstrate any measurable behavioral response; estimated received levels based on the measures given were approximately 120 to 130 dB.

—Costa et al. (2003) measured received sound levels from an Acoustic Thermometry of Ocean Climate (ATOC) program sound source off northern California using acoustic data loggers placed on translocated elephant seals. Subjects were captured on land, transported to sea, instrumented with archival acoustic tags, and released such that their transit would lead them near an active ATOC source (at 0.6 mi depth [939 m]; 75-Hz signal with 37.5-Hz bandwidth; 195 dB maximum source level, ramped up from 165 dB over 20 min) on their return to a haul-out site. Received exposure levels of the ATOC source for experimental subjects averaged 128 dB (range 118 to 137) in the 60- to 90-Hz band. None of the instrumented animals terminated dives or radically altered behavior upon exposure, but some statistically significant changes in diving parameters were documented in nine individuals. Translocated northern elephant seals exposed to this particular non-pulse source began to demonstrate subtle behavioral changes at exposure to received levels of approximately 120 to 140 dB.

Several available studies provide information on the reactions of pinnipeds to non-pulsed underwater sound. Kastelein et al. (2006) exposed nine captive harbor seals in an approximately 82 x 98 ft (25 x 30 m) enclosure to non-pulse sounds used in underwater data communication systems (similar to acoustic modems). Test signals were frequency modulated tones, sweeps, and bands of sound with fundamental frequencies between 8 and 16 kHz; 128 to 130 ±3 dB source levels; 1- to 2-s duration (60–80 percent duty cycle); or 100 percent duty cycle. They recorded seal positions and the mean number of individual surfacing behaviors during control periods (no exposure), before exposure, and in 15-min experimental sessions (n = 7 exposures for each sound type). Seals generally swam away from each source at received levels of approximately 107 dB, avoiding it by approximately 16 ft (5 m), although they did not haul out of the water or change surfacing behavior. Seal reactions did not appear to wane over repeated exposure (*i.e.* there was no obvious habituation), and the colony of seals generally returned to baseline conditions following exposure. The seals were not reinforced with food for remaining in the sound field.

Ship and boat sound do not seem to have strong effects on seals in the water, but the data are limited. When in the water, seals appear to be much less apprehensive about approaching vessels. Gray seals (*Halichoerus grypus*) have been known to approach and follow fishing vessels in an effort to steal catch or the bait from traps. In contrast, seals hauled out on land often are quite responsive to nearby vessels. Terhune (1985) reported that northwest Atlantic harbor seals were extremely vigilant when hauled out and were wary of approaching (but less so passing) boats. Suryan and Harvey (1999) reported that Pacific harbor seals commonly left the shore when powerboat operators approached to observe the seals. Those seals detected a powerboat at a mean distance of 866 ft (264 m), and seals left the haul-out site when boats approached to within 472 ft (144 m).

Southall et al. (2007) also compiled known studies of behavioral responses of marine mammals to airborne sound, noting that studies of pinniped response to airborne pulsed sounds are exceedingly rare. The authors deemed only one study as having quantifiable results.

Blackwell et al. (2004) studied the response of ringed seals within 500 m of impact driving of steel pipe pile. Received levels of airborne sound were measured at 93 dB at a distance of 63 m. Seals had either no response or limited response to pile driving. Reactions were described as ''indifferent'' or ''curious.''

Efforts to deter pinniped predation on salmonids below Bonneville Dam began in 2005, and have used Acoustic Deterrent Devices (ADDs), boat chasing, above-water pyrotechnics (cracker shells, screamer shells or rockets), rubber bullets, rubber buckshot, and beanbags (Stansell et al. 2013). Review of deterrence activities by the West Coast Pinniped Program noted ''USACE observations from 2002 to 2008

indicated that increasing numbers of California sea lions were foraging on salmon at Bonneville Dam each year, salmon predation rates increased, and the deterrence efforts were having little effect on preventing predation'' (Scordino 2010). In the USACE status report through May 28, 2010, boat hazing was reported to have limited, local, short term impact in reducing predation in the tailrace, primarily from Steller sea lions. ODFW and the WDFW reported that sea lion presence did not appear to be significantly influenced by boat-based activities and several 'new' sea lions (initially unbranded or unknown from natural markings) continued to forage in the observation area in spite of shore- and boat-based hazing. They suggested that hazing was not effective at deterring naive sea lions if there were large numbers of experienced sea lions foraging in the area (Brown et al. 2010). Observations on the effect of ADDs, which were installed at main fishway entrances in 2007, noted that pinnipeds were observed swimming and eating fish within 20 ft (6 m) of some of the devices with no deterrent effect observed (Tackley et al. 2008; Stansell et al. 2013). Many of the animals returned to the area below the dam despite hazing efforts (Stansell et al. 2013). Relocation efforts to Astoria and the Oregon coast were implemented in 2007; however, all but one of fourteen relocated animals returned to Bonneville Dam within days (Scordino 2010).

No information on in-water sound levels of hazing activities at Bonneville Dam has been published other than that ADDs produce underwater sound levels of 205 dB in the 15 kHz range (Stansell et al. 2013). Durations of boat-based hazing events were reported at less than 30 minutes for most of the 521 boat-based events in 2009, but ranged up to 90 minutes (Brown et al. 2009). Durations of boat-based hazing events were not reported for 2010. However, 280 events occurred over 44 days during a five-month period using a total of 4,921 cracker shells, 777 seal bombs, and 97 rubber buckshot rounds (Brown et al. 2010). Based on knowledge of in-water sound from construction activities, the POK project believes that sound levels from in-water construction and demolition activities that pinnipeds would be potentially exposed to are not as high as those produced by hazing techniques.

In addition, sea lions are expected to quickly traverse through and not remain in the project area. Tagging studies of California sea lions indicate that they pass hydrophones upriver and downriver of the POK project site quickly. Wright et al. (2010) reported minimum upstream and downstream transit times between the Astoria haul-out and Bonneville Dam (river distance approximately 20 km) were 1.9 and 1 day, respectively, based on fourteen trips by eleven sea lions. The transit speed was calculated to be 4.6 km/hr in the upstream direction and 8.8 km/hr in the downstream direction. Data from the six individuals acoustically tagged in 2009 show that they made a combined total of eleven upriver or downriver trips quickly through the POK project site to or from Bonneville Dam and Astoria (Brown et al. 2009). Data from four acoustically tagged California sea lions in 2010 also indicate that the animals move though the area below Bonneville Dam down to the receivers located below the POK project site rapidly both in the upriver or downriver directions (Wright et al. 2010). Although the data apply to California sea lions, Steller sea lions and harbor seals similarly have no incentive to stay near the POK project area, in contrast with a strong incentive to quickly reach optimal foraging grounds at the Bonneville Dam, and are thus expected to also pass the project area quickly. Therefore, pinnipeds are not expected to be exposed to significant duration of construction sound.

It is possible that deterrence of passage through the project area could be a concern. However, given the 750-m width of the Columbia, with no activity occurring on the opposite bank in the project area, passage should not be hindered. Vibratory installation of steel casings, pipe piles, and sheet piles are calculated to exceed behavioral disturbance thresholds at large distances; thus, the entire width of the channel would be affected by sound above the disturbance threshold. However, because these sound levels are lower than those produced by ADDs at Bonneville Dam—which have shown only limited efficacy in deterring pinnipeds—and because pinnipeds transiting the region of activity will be highly motivated to complete transit, deterrence of passage is not anticipated to occur.

Vessel Operations

Various types of vessels, including barges, tug boats, and small craft, would be present in the region of activity at various times. Vessel traffic would continually traverse the in-water POK project area in transit to port facilities upstream of the project location. Such vessels already use the region of activity in moderately high numbers; therefore, the vessels to be used in the region of activity do not represent a new sound source, only a potential increase in the frequency and duration of these sound source types.

There are very few controlled tests or repeatable observations related to the reactions of pinnipeds to vessel noise. However, Richardson et al. (1995) reviewed the literature on reactions of pinnipeds to vessels, concluding overall that pinnipeds showed high tolerance to vessel noise. One study showed that, in water, sea lions tolerated frequent approach of vessels at close range. Because the region of activity is heavily traveled by commercial and recreational craft, it seems likely that pinnipeds that transit the region of activity are already habituated to vessel noise, thus the additional vessels that would occur as a result of POK project activities would likely not have an additional effect on these pinnipeds. Therefore, POK project vessel noise in the region of activity is unlikely to rise to the level of Level B harassment.

Dredging

The proposed project includes up to 126,000 CY of dredging to provide adequate berth depth for the new marine terminal. Noise measurements of dredging activities are rare in the literature, but dredging is considered to be a low-impact activity for marine mammals, producing non-pulsed sound and being substantially quieter in terms of acoustic energy output than sources such as seismic airguns and impact pile driving. Noise produced by dredging operations has been compared to that produced by a commercial vessel travelling at modest speed (Robinson et al., 2011), of which there is high volume in the lower Columbia River (see Vessel Operations, above). Further discussion of dredging sound production may be found in the literature (*e.g.,* Richardson et al., 1995, Nedwell et al., 2008, Parvin et al., 2008, Ainslie et al., 2009). Generally, the effects of dredging on marine mammals are not expected to rise to the level of a take. Therefore, this project component will not be discussed further.

Physical Disturbance

Vessels, in-water structures, and over-water structures have the potential to cause physical disturbance to pinnipeds, although in-water and over-water structures would cover no more than 20 percent of the entire channel width at one time. As previously mentioned, various types of vessels already use the region of activity in high numbers. Tug boats and barges are slow moving and follow a predictable course. Pinnipeds would be able to easily avoid these vessels while transiting through

the region of activity, and are likely already habituated to the presence of numerous vessels, as the lower Columbia River receives high levels of commercial and recreational vessel traffic. Therefore, vessel strikes are extremely unlikely and, thus, discountable. Potential encounters would likely be limited to brief, sporadic behavioral disturbance, if any at all. Such disturbances are not likely to result in a risk of Level B harassment of pinnipeds transiting the region of activity.

Hearing Impairment and Other Physiological Effects

Temporary or permanent hearing impairment is a possibility when marine mammals are exposed to very strong sounds. Non-auditory physiological effects might also occur in marine mammals exposed to strong underwater sound. Possible types of non-auditory physiological effects or injuries that may occur in mammals close to a strong sound source include stress, neurological effects, bubble formation, and other types of organ or tissue damage. It is possible that some marine mammal species (*i.e.* beaked whales) may be especially susceptible to injury and/or stranding when exposed to strong pulsed sounds, particularly at higher frequencies. Non-auditory physiological effects are not anticipated to occur as a result of POK activities. The following subsections discuss the possibilities of TTS and PTS.

TTS

TTS, reversible hearing loss caused by fatigue of hair cells and supporting structures in the inner ear, is the mildest form of hearing impairment that can occur during exposure to a strong sound (Kryter 1985). While experiencing TTS, the hearing threshold rises and a sound must be stronger in order to be heard. TTS can last from minutes or hours to (in cases of strong TTS) days. For sound exposures at or somewhat above the TTS threshold, hearing sensitivity in both terrestrial and marine mammals recovers rapidly after exposure to the sound ends.

NOAA Fisheries considers TTS to be a form of Level B harassment rather than injury, as it consists of fatigue to auditory structures rather than damage to them. Pinnipeds have demonstrated complete recovery from TTS after multiple exposures to intense sound, as described in the studies below (Kastak et al. 1999, 2005). The NOAA Fisheries-established 190-dB rms SPLcriterion is not considered to be the level above which TTS might occur. Rather, it is the received level above which, in the view of a panel of bioacoustics specialists convened by NOAA Fisheries before TTS measurements for marine mammals became available, one could not be certain that there would be no injurious effects (*e.g.,* PTS), auditory or otherwise, to pinnipeds. Therefore, exposure to sound levels above 190 dB rms does not necessarily mean that an animal has been injured, but rather that it may have occurred and we cannot rule it out.

Human non-impulsive sound exposure guidelines are based on exposures of equal energy (the same sound exposure level [SEL]; SEL is reported here in dB re: 1 μPa^2-s/re: 20 μPa^2-s for in-water and in-air sound, respectively) producing equal amounts of hearing impairment regardless of how the sound energy is distributed in time (NIOSH, 1998). Until recently, previous marine mammal TTS studies have also generally supported this equal energy relationship (Southall et al. 2007). Two newer studies, two by Mooney et al. (2009a,b) on a single bottlenose dolphin (*Tursiops truncatus*) either exposed to playbacks of U.S. Navy mid-frequency active sonar or octave-band sound (4–8 kHz) and one by Kastak et al. (2007) on a single California sea lion exposed to airborne octave-band sound (centered at 2.5 kHz), concluded that for all sound exposure situations, the equal energy relationship may not be the best indicator to predict TTS onset levels. Generally, with sound exposures of equal energy, those that were quieter (lower SPL) with longer duration were found to induce TTS onset more than those of louder (higher SPL) and shorter duration. Given the available data, the received level of a single seismic pulse (with no frequency weighting) might need to be approximately 186 dB SEL in order to produce brief, mild TTS.

In free-ranging pinnipeds, TTS thresholds associated with exposure to brief pulses (single or multiple) of underwater sound have not been measured. However, systematic TTS studies on captive pinnipeds have been conducted (*e.g.* Kastak et al. 1999, 2005, 2007; Schusterman et al. 2000; Finneran et al. 2003; Southall et al. 2007). Specific studies are detailed here:

—Finneran et al. (2003) studied responses of two individual California sea lions. The sea lions were exposed to single pulses of underwater sound, and experienced no detectable TTS at received sound level of 183 dB peak (163 dB SEL).

There were three studies conducted on pinniped TTS responses to non-pulsed underwater sound. All of these studies were performed in the same lab and on the same test subjects, and, therefore, the results may not be applicable to all pinnipeds or in field settings.

—Kastak and Schusterman (1996) studied the response of harbor seals to non-pulsed construction sound, reporting TTS of about 8 dB. The seal was exposed to broadband construction sound for 6 days, averaging 6 to 7 hours of intermittent exposure per day, with SPLs from just approximately 90 to 105 dB.

—Kastak et al. (1999) reported TTS of approximately 4–5 dB in three species of pinnipeds (harbor seal, California sea lion, and northern elephant seal) after underwater exposure for approximately 20 minutes to sound with frequencies ranging from 100–2,000 Hz at received levels 60–75 dB above hearing threshold. This approach allowed similar effective exposure conditions to each of the subjects, but resulted in variable absolute exposure values depending on subject and test frequency. Recovery to near baseline levels was reported within 24 hours of sound exposure.

—Kastak et al. (2005) followed up on their previous work, exposing the same test subjects to higher levels of sound for longer durations. The animals were exposed to octave-band sound for up to 50 minutes of net exposure. The study reported that the harbor seal experienced TTS of 6 dB after a 25-minute exposure to 2.5 kHz of octave-band sound at 152 dB (183 dB SEL). The California sea lion demonstrated onset of TTS after exposure to 174 dB and 206 dB SEL.

Southall et al. (2007) reported one study on TTS in pinnipeds resulting from airborne pulsed sound, while two studies examined TTS in pinnipeds resulting from airborne non-pulsed sound:

—Kastak et al. (2004) used the same test subjects as in Kastak et al. 2005, exposing the animals to non-pulsed sound (2.5 kHz octave-band sound) for 25 minutes. The harbor seal demonstrated 6 dB of TTS after exposure to 99 dB (131 dB SEL). The California sea lion demonstrated onset of TTS at 122 dB and 154 dB SEL.

—Kastak et al. (2007) studied the same California sea lion as in Kastak et al. 2004 above, exposing this individual to 192 exposures of 2.5 kHz octave-band sound at levels ranging from 94 to 133 dB for 1.5 to 50 min of net exposure duration. The test subject experienced up to 30 dB of TTS. TTS onset occurred at 159 dB SEL. Recovery times ranged from several minutes to 3 days.

The sound level necessary to cause TTS in pinnipeds depends on exposure duration; with longer exposure, the level necessary to elicit TTS is reduced (Schusterman et al. 2000; Kastak et al. 2005, 2007). For very short exposures (*e.g.* to a single sound pulse), the level necessary to cause TTS is very high (Finneran et al. 2003). Impact pile driving associated with POK would produce maximum estimated underwater pulsed sound levels estimated at 185 dB peak and 163 dB SEL (24-inch octagonal concrete piles, Illinworth and Rodkin 2007). Summarizing existing data, Southall et al. (2007) assume that pulses of underwater sound result in the onset of TTS in pinnipeds when received levels reach 212 dB peak or 171 dB SEL, and interim NOAA Fisheries guidance indicates the potential for Level A harassment of pinnipeds at received levels of 190dB rms. TTS is not likely to occur based on estimated source levels from the POK project.

Impact pile driving would produce initial airborne sound levels of approximately 110 dB peak at the source (WSDOT 2014), as compared to the level suggested by Southall et al. (2007) of 143 dB peak for onset of TTS in pinnipeds from multiple pulses of airborne sound. It is not expected that airborne sound levels would induce TTS in individual pinnipeds.

Although underwater sound levels produced by the POK project may exceed levels produced in studies that have induced TTS in pinnipeds up to 4 feet from pile driving activities, this extremely small radius of potential effects combined with marine mammal monitoring and a 15m shut down zone make the likelihood of pinnipeds in the area experience hearing loss extremely unlikely.

PTS

When PTS occurs, there is physical damage to the sound receptors in the ear. In some cases, there can be total or partial deafness, whereas in other cases, the animal has an impaired ability to hear sounds in specific frequency ranges.

There is no specific evidence that exposure to underwater industrial sounds can cause PTS in any marine mammal (Southall et al. 2007). However, given the possibility that marine mammals might incur TTS, there has been further speculation about the possibility that some individuals occurring very close to industrial activities might incur PTS. Richardson et al. (1995) hypothesized that PTS caused by prolonged exposure to continuous anthropogenic sound is unlikely to occur in marine mammals, at least for sounds with source levels up to approximately 200 dB. Single or occasional occurrences of mild TTS are not indicative of permanent auditory damage in terrestrial mammals. Studies of relationships between TTS and PTS thresholds in marine mammals are limited; however, existing data appear to show similarity to those found for humans and other terrestrial mammals, for which there is a large body of data. PTS might occur at a received sound level at least several decibels above that inducing mild TTS.

Southall et al. (2007) propose that sound levels inducing 40 dB of TTS may result in onset of PTS in marine mammals. The authors present this threshold with precaution, as there are no specific studies to support it. Because direct studies on marine mammals are lacking, the authors base these recommendations on studies performed on other mammals. Additionally, the authors assume that multiple pulses of underwater sound result in the onset of PTS in pinnipeds when levels reach 218 dB peak or 186 dB SEL. In air, sound levels are assumed to cause PTS in pinnipeds at 149 dB peak or 144 dB SEL (Southall et al. 2007). Sound levels this high are not expected to occur as a result of the proposed activities.

The potential effects to marine mammals described in this section of the document do not take into consideration the proposed monitoring and mitigation measures described later in this document (see the Monitoring and Mitigation and Proposed Monitoring and Reporting sections). It is highly unlikely that marine mammals would receive sounds strong enough (and over a sufficient duration) to cause PTS (or even TTS) during the proposed POK activities. When taking the mitigation measures proposed for inclusion in the regulations into consideration, it is highly unlikely that any type of hearing impairment would occur as a result of POK's proposed activities.

Anticipated Effects on Marine Mammal Habitat

The action are for the proposed project does not contain any important habitat for the three marine mammal species that may occur there; there are no rookeries, haulouts, or breeding grounds that will be affected by the proposed action. Construction activities would likely impact pinniped habitat in the Columbia River used primarily as a migration corridor and opportunistic feeding activity by producing temporary disturbances, primarily through elevated levels of underwater sound, reduced water quality, and physical habitat alteration associated with the structural footprint of the new marine terminal. Other potential temporary changes are passage obstruction and changes in prey species distribution during construction. Permanent changes to habitat would be produced primarily through the presence of the new marine terminal in Columbia River.

The underwater sounds would occur as short-term pulses (*i.e.* minutes to hours), separated by virtually instantaneous and complete recovery periods. These disturbances are likely to occur up to 120 days during the available in-water work window throughout daylight hours. Water quality impairment would also occur during construction, most likely due to dredging. Physical habitat alteration due to the addition of in-water and over-water structures would also occur intermittently during construction, and would remain as the final, as-built project footprint for the design life of POK.

Elevated levels of sound may be considered to affect the in-water habitat of pinnipeds via impacts to prey species or through passage obstruction (discussed later). However, due to the timing of the in-water work, these effects on pinniped habitat would be temporary and limited in duration. Very few harbor seals are likely to be present in any case, and any pinnipeds that do encounter increased sound levels would primarily be transiting the action area in route to or from foraging below Bonneville Dam where fish concentrate or at the confluence of the Cowlitz River, and thus unlikely to forage in the action area in anything other than an opportunistic manner. The direct loss of habitat available during construction due to sound impacts is expected to be minimal.

Impacts to Prey Species

Fish are the primary dietary component of pinnipeds in the region of activity. The Columbia River provides migration and foraging habitat for sturgeon and lamprey, migration and spawning habitat for eulachon, and migration habitat for juvenile and adult salmon and steelhead, as well as some limited rearing habitat for juvenile salmon and steelhead.

Impact pile driving would produce a variety of underwater sound levels. Underwater sound caused by vibratory installation would be less than impact driving (Illinworth and Rodkin 2007). Literature relating to the impacts of sound on marine fish species can be divided into categories which describe

the following: (1) Pathological effects; (2) physiological effects; and (3) behavioral effects. Pathological effects include lethal and sub-lethal physical damage to fish; physiological effects include primary and secondary stress responses; and behavioral effects include changes in exhibited behaviors of fish. Behavioral changes might be a direct reaction to a detected sound or a result of anthropogenic sound masking natural sounds that the fish normally detect and to which they respond. The three types of effects are often interrelated in complex ways. For example, some physiological and behavioral effects could potentially lead ultimately to the pathological effect of mortality. Hastings and Popper (2005) reviewed what is known about the effects of sound on fish and identified studies needed to address areas of uncertainty relative to measurement of sound and the responses of fish.

Underwater sound pressure waves can injure or kill fish. Fish with swim bladders, including salmon, steelhead, and sturgeon, are particularly sensitive to underwater impulsive sounds with a sharp sound pressure peak occurring in a short interval of time (Hastings and Popper 2005). As the pressure wave passes through a fish, the swim bladder is rapidly squeezed due to the high pressure, and then rapidly expanded as the underpressure component of the wave passes through the fish. The pneumatic pounding may rupture capillaries in the internal organs. Although eulachon lack a swim bladder, they are also susceptible to general pressure wave injuries including hemorrhage and rupture of internal organs, as described above, and damage to the auditory system. Direct take can cause instantaneous death, latent death within minutes after exposure, or can occur several days later. Indirect take can occur because of reduced fitness of a fish, making it susceptible to predation, disease, starvation, or inability to complete its life cycle. Effects to prey species are summarized here and are outlined in more detail in NOAA Fisheries' biological opinion.

There are no physical barriers to fish passage within the region of activity, nor are there fish passage barriers between the region of activity and the Pacific Ocean. The proposed project would not involve the creation of permanent physical barriers; thus, long-term changes in pinniped prey species distribution are not expected to occur.

Nevertheless, impact pile-driving would likely create a temporary migration barrier to all life stages of fish using the Columbia River, although this would be localized and mitigated by the in-water work window designed to minimize impacts to fish species. Impacts to fish species distribution would be temporary during in-water work and hydroacoustic impacts from impact pile driving would only occur during the day and only during the in-water work window established for this activity in conjunction with ODFW, WDFW, and NOAA Fisheries. The overall effect to the prey base for pinnipeds is anticipated to be insignificant.

Prey may also be affected by turbidity, contaminated sediments, or other contaminants in the water column. The POK project involves several activities that could potentially generate turbidity in the Columbia River, including pile installation, pile removal, and dredging. Any measurable increase in turbidity is not anticipated to measurably exceed levels caused by normal increases associated with normal high flow events. Turbidity is not expected to cause mortality to fish species in the region of activity, and effects would probably be limited to temporary avoidance of the discrete areas of elevated turbidity (anticipated to be no more than 300 ft [91 m] from the source) for approximately 8–10 hours at a time, or effects such as abrasion to gills and alteration in feeding and migration behavior for fish close to the activity. Therefore, turbidity would likely have only insignificant effects to fish and, thus, insignificant effects on pinnipeds.

The POK project has already determined that the project location does not have elevated concentrations of contaminants and is fully suited to any beneficial reuse (as described above), and therefore effects to water quality from resuspended contaminants are not anticipated from the proposed action.

Physical Loss of Prey Species Habitat

The project would lead to approximately 44,943 ft^2 of additional new, permanent, overwater coverage, and the loss of 1,079 ft^2 of benthic habitat from new piles in the Columbia River. Removal of the existing Columbia River piles would permanently restore about 123 ft^2 (557 m^2) of shallow-water habitat Physical loss of shallow-water habitat is of particular concern for rearing of subyearling migrant salmonids. In theory, in-water structures that completely block the nearshore may force these juveniles to swim into deeper-water habitats to circumvent them. Deep-water areas represent lower quality habitat because predation rates are higher there. Studies show that predators such as walleye (*Stizostedion vitreum*), northern pike-minnow (*Ptychocheilus oregonensis*), and other predatory fish occur in deepwater habitat for at least part of the year (Pribyl et al. 2004). In the case of the POK project, in-water portions of the structures would not pose a complete blockage to nearshore movement anywhere in the region of activity. Although these structures would cover potential rearing and nearshore migration areas, the habitat is not rare and is not of particularly high quality. Juveniles would still be able to use the abundant shallow-water habitat available for miles in either direction. Neither the permanent nor the temporary structures would necessarily force juveniles into deeper water, and therefore pose no definite added risk of predation.

To the limited extent that the proposed actions do increase risk of predation, pinnipeds may accrue minor benefits. Alterations to adult eulachon and salmon behavior may make them more vulnerable to predation. Changes in cover that congregate fish or cause them to slow or pause migration would likely attract pinnipeds, which may then forage opportunistically. While individual pinnipeds are likely to take advantage of such conditions, it is not expected to increase overall predation rates across the run. Aggregating features would be small in comparison to the channel, and ample similar opportunities exist throughout the lower Columbia River.

Physical loss of shallow-water habitat would have only negligible effects on foraging, migration, and holding of salmonids that are of the yearling age class or older. These life functions are not dependent on shallow-water habitat for these age classes. Furthermore, the lost habitat is not of particularly high quality. There is abundant similar habitat immediately adjacent along the shorelines of the Columbia River. The lost habitat represents only a small fraction of the remaining habitat available for miles in either direction. There would still be many acres of habitat for yearling or older age-classes of salmonids foraging, migrating, and holding in the region of activity. Physical loss of shallow-water habitat would have only negligible effects on eulachon and green sturgeon for the same reason. Thus, the effects to these elements of pinniped habitat would be minimal.

In addition, compensatory mitigation for direct permanent habitat loss to jurisdictional waters from permanent pier placement would occur in accordance with requirements set by USACE, Washington Department of Ecology, and WDFW. To meet these requirements, POK is proposing to

restore habitat in the 1.41 acres of riparian habitat near the project location through native plantings and invasive species control. Additionally, POK will install eight ELJs that will improve habitat for salmonids and eulachon. Therefore, permanent habitat loss is expected to have a negligible impact to habitat for pinniped prey species due to offsetting mitigation.

Due to the small size of the impact relative to the remaining habitat available, and the permanent benefits from habitat restoration, permanent physical habitat loss is likely to be insignificant to fish and, thus, to the habitat and foraging opportunities of pinnipeds.

Mitigation

Mitigation Monitoring Protocols

Initial monitoring zones are based on a practical spreading loss model and data found in Illinworth and Rodkin (2007). A minimum distance of 10 m is used for all shutdown zones, even if actual or initial calculated distances are less. A maximum distance of in-water line of sight is used for all disturbance zones for vibratory pile driving, even if actual or calculated values are greater. To provide the best estimate of transmission loss at a specific range, the data were estimated using a practical spreading loss model.

TABLE 2—DISTANCE TO INITIAL SHUTDOWN AND DISTURBANCE MONITORING ZONES FOR IN-WATER SOUND IN THE COLUMBIA RIVER

Pile type	Hammer type	Distance to monitoring zones (m) [1]		
		190 dB [2]	160 dB [2]	120 dB [2]
24-in Concrete pile	Impact	10	117	N/A.
18-in Steel pipe pile	Vibratory	10	N/A	Line of Sight, (max 5.7km).
18-in Steel pipe pile	Impact	18	736	NA.

[1] Monitoring zones based on a practical spreading loss model and data from Illinworth and Rodkin (2007). A minimum distance of 10 m is used for all shutdown zones, even if actual or initial calculated distances are less.
[2] All values unweighted and relative to 1 μPa.

In order to accomplish appropriate monitoring for mitigation purposes, POK would have an observer stationed on each active pile driving location to closely monitor the shutdown zone as well as the surrounding area. In addition, POK would post two shore-based observers (one upstream of the project, and another downstream of the project area; see application), whose primary responsibility would be to record pinnipeds in the disturbance zone and to alert barge-based observers to the presence of pinnipeds in the disturbance zone, thus creating a redundant alert system for prevention of injurious interaction as well as increasing the probability of detecting pinnipeds in the disturbance zone. POK estimates that shore-based observers would be able to scan approximately 800 m (upstream and downstream) from the available observation posts; therefore, shore-based observers would be capable of monitoring the agreed-upon disturbance zone.

As described, at least three observers would be on duty during all pile vibratory driving/removal activity. The first observer would be positioned on a work platform or barge where the entire 10 m shutdown zone is clearly visible, with the shore-based observers positioned to observe the disturbance zone from the bank of the river. Protocols would be implemented to ensure that coordinated communication of sightings occurs between observers in a timely manner.

In summary:

—POK would implement a minimum shutdown zone of 10 m radius around all pile driving activity (or 18m in the case that impact pile driving is required for steel piles). The 10-m shutdown zone provides a buffer for the 190-dB threshold but is also intended to further avoid the risk of direct interaction between marine mammals and the equipment.

—POK would have a redundant monitoring system, in which one observer would be stationed at the area of active pile driving, while two observers would be shore-based, as required to provide complete observational coverage of the reduced disturbance zone for each pile driving/removal site. The former would be capable of providing comprehensive monitoring of the proposed shutdown zones. This observer's first priority would be shutdown zone monitoring in prevention of injurious interaction, with a secondary priority of counting takes by Level B harassment in the disturbance zone. The additional shore-based observers would be able to monitor the same distances, but their primary responsibility would be counting of takes in the disturbance zone and communication with barge-based observers to alert them to pinniped presence in the action area.

—The shutdown and disturbance zones would be monitored throughout the time required to drive a pile. If a marine mammal is observed within the disturbance zone, a take would be recorded and behaviors documented. However, that pile segment would be completed without cessation, unless the animal approaches or enters the shutdown zone, at which point all pile driving activities would be halted.

The following measures would apply to visual monitoring:

—If the shutdown zone is obscured by fog or poor lighting conditions, pile driving would not be initiated until the entire shutdown zone is visible. Work that has been initiated appropriately in conditions of good visibility may continue during poor visibility.

—The shutdown zone would be monitored for the presence of pinnipeds before, during, and after any pile driving activity. The shutdown zone would be monitored for 30 minutes prior to initiating the start of pile driving. If pinnipeds are present within the shutdown zone prior to pile driving, the start of pile driving would be delayed until the animals leave the shutdown zone of their own volition, or until 15 minutes elapse without re-sighting the animal(s).

—Monitoring would be conducted using binoculars. When possible, digital video or still cameras would also be used to document the behavior and response of pinnipeds to construction activities or other disturbances.

—Each observer would have a radio or cell phone for contact with other monitors or work crews. Observers would implement shut-down or delay procedures when applicable by

calling for the shut-down to the hammer operator.

—A GPS unit or electric range finder would be used for determining the observation location and distance to pinnipeds, boats, and construction equipment.

Monitoring would be conducted by qualified observers. In order to be considered qualified, observers must meet the following criteria:

—Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target.Advanced education in biological science, wildlife management, mammalogy, or related fields (bachelor's degree or higher is required).

—Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience).

—Experience or training in the field identification of pinnipeds, including the identification of behaviors.

—Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations.

—Writing skills sufficient to prepare a report of observations including but not limited to the number and species of pinnipeds observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of pinnipeds observed within a defined shutdown zone; and pinniped behavior.

—Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on pinnipeds observed in the area as necessary.

Disturbance Zones

For all pile driving and removal activities, a disturbance zone would be established. Disturbance zones are typically defined as the area in which SPLs equal or exceed 160 or 120 dB rms (for impact and vibratory pile driving, respectively). However, when the size of a disturbance zone is sufficiently large as to make monitoring of the entire area impracticable (as in the case of the 120-dB zone here), the disturbance zone may be defined as some area that may reasonably be monitored. Here, the disturbance zone is defined for monitoring purposes as an area are the waters within line of sight of project activities, with a maximum line of sight distance based on local geography of approximately 5.7 km. Disturbance zones provide utility for monitoring conducted for mitigation purposes (*i.e.* shutdown zone monitoring) by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring of disturbance zones enables PSOs to be aware of and communicate the presence of marine mammals in the project area but outside the shutdown zone and thus prepare for potential shutdowns of activity. However, the primary purpose of disturbance zone monitoring is for documenting incidents of Level B harassment; disturbance zone monitoring is discussed in greater detail later (see Proposed Monitoring and Reporting).

Shutdown Zones

For all pile driving, a shutdown zone (defined as, at minimum, the area in which SPLs equal or exceed 190 dB rms) of 10 m from impact driving of concrete piles and vibratory pile driving, and 18 m for impact pile driving of steel piles, would be established. The purpose of a shutdown zone is to define an area within which shutdown of activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area), thus preventing injury, serious injury, or death of marine mammals. Although practical spreading loss model indicates that radial distances to the 190-dB threshold would be less than 10m for impact pile driving of concrete piles and vibratory pile driving, shutdown zones would conservatively be set at a minimum 10 m. This precautionary measure is intended to further reduce any possibility of injury to marine mammals by incorporating a buffer to the 190-dB threshold within the shutdown area.

Shutdown

Pile driving would occur from September 1 through January 31. The shutdown zone would also be monitored throughout the time required to drive a pile. If a pinniped is observed approaching or entering the shutdown zone, piling operations would be discontinued until the animal has moved outside of the shutdown zone. Pile driving would resume only after the animal is determined to have moved outside the shutdown zone by a qualified observer or after 15 minutes have elapsed since the last sighting of the animal within the shutdown zone.

Pile Driving Best Management Practices

For pile driving, the applicant will implement the following best management practices:

—If steel piles require impact installation or proofing, a bubble curtain will be used for sound attenuation;

—If steel piles require impact installation or proofing, the contractor will be required to use soft start procedures. Soft start procedures require that the contractor provides an initial set of three strikes at reduced energy, followed by a thirty-second waiting period, then two subsequent reduced energy strike sets;

—Soft start shall be implemented at the start of each day's pile driving and at any time following cessation of impact pile driving for a period of thirty minutes or longer;

—Marine mammal monitoring will be conducted during all pile driving as described in Appendix B of the application.

Other Mitigation and Best Management Practices

In addition, NOAA Fisheries and POK, together with other relevant regulatory agencies, have developed a number of mitigation measures designed to protect fish through prevention or minimization of turbidity and disturbance and introduction of contaminants, among other things. These measures have been prescribed under the authority of statutes other than the MMPA, and are not a part of this proposed rulemaking. However, because these measures minimize impacts to pinniped prey species (either directly or indirectly, by minimizing impacts to prey species' habitat), they are summarized briefly here. Additional detail about these measures may be found in POK's application.

Timing restrictions would be used to avoid in-water work when ESA-listed fish are most likely to be present. Fish entrapment would be minimized by containing and isolating in-water work to the extent possible, through the use of drilled shaft casings and cofferdams. The contractor would provide a qualified fishery biologist to conduct and supervise fish capture and release activity to minimize risk of injury to fish. All pumps must employ fish screen that meet certain specifications in order to avoid entrainment of fish. A qualified biologist would be present during all impact pile driving operations to observe and report any indications of dead, injured, or distressed fishes, including direct observations of these

fishes or increases in bird foraging activity.

POK would work to ensure minimum degradation of water quality in the project area, and requires compliance with Surface Water Quality Standards for Washington. In addition, the contractor would prepare a Spill Prevention, Control, and Countermeasures (SPCC) Plan prior to beginning construction. The SPCC Plan would identify the appropriate spill containment materials; as well as the method of implementation. All equipment to be used for construction activities would be cleaned and inspected prior to arriving at the project site, to ensure no potentially hazardous materials are exposed, no leaks are present, and the equipment is functioning properly. Equipment that would be used below OHW would be identified; daily inspection and cleanup procedures would insure that identified equipment is free of all external petroleum-based products. Should a leak be detected on heavy equipment used for the project, the equipment must be immediately removed from the area and not used again until adequately repaired.

The contractor would also be required to prepare and implement a Temporary Erosion and Sediment Control (TESC) Plan and a Source Control Plan for project activities requiring clearing, vegetation removal, grading, ditching, filling, embankment compaction, or excavation. The BMPs in the plans would be used to control sediments from all vegetation removal or ground-disturbing activities.

Conclusions for Effectiveness of Mitigation

NOAA Fisheries has carefully evaluated the applicant's proposed mitigation measures and considered a range of other measures in the context of ensuring that NOAA Fisheries prescribes the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

—The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;
—The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
—The practicability of the measure for applicant implementation.

Based on our evaluation, NOAA Fisheries has preliminarily determined that the mitigation measures proposed from both NOAA Fisheries and POK provide the means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance. The proposed rule comment period will afford the public an opportunity to submit recommendations, views, and/or concerns regarding this action and the proposed mitigation measures.

Proposed Monitoring and Reporting

In order to issue an incidental take authorization (ITA) for an activity, section 101(a)(5)(A) of the MMPA states that NOAA Fisheries must, where applicable, 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 ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that would result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area.

POK proposed a marine mammal monitoring plan in their application (see Appendix B of POK's application). The plan may be modified or supplemented based on comments or new information received from the public during the public comment period. All methods identified herein have been developed through coordination between NOAA Fisheries and the design and environmental teams at POK. The methods are based on the parties' professional judgment supported by their collective knowledge of pinniped behavior, site conditions, and proposed project activities. Because pinniped monitoring has not previously been conducted at this site, aspects of these methods may warrant modification. Any modifications to this protocol would be coordinated with NOAA Fisheries. A summary of the plan, as well as the proposed reporting requirements, is contained here.

The intent of the monitoring plan is to:

—Comply with the requirements of the MMPA as well as the ESA section 7 consultation;
—Avoid injury to pinnipeds through visual monitoring of identified shutdown zones and shut-down of activities when animals enter or approach those zones; and
—To the extent possible, record the number, species, and behavior of pinnipeds in disturbance zones for pile driving and removal activities.

As described previously, monitoring for pinnipeds would be conducted in specific zones established to avoid or minimize effects of elevated levels of sound created by the specified activities. Shutdown zones would not be less than 10 m, while initial disturbance zones would be based on site-specific data.

Visual Monitoring

The established shutdown and disturbance zones would be monitored by qualified marine mammal observers for mitigation purposes, as well as to document marine mammal behavior and incidents of Level B harassment, as described here. POK's marine mammal monitoring plan (see Appendix B of POK's application) would be implemented, requiring collection of sighting data for each pinniped observed during the proposed activities for which monitoring is required, including impact installation of concrete pile or vibratory installation of steel pipe. A qualified biologist(s) would be present on site at all times during impact pile driving or vibratory installation or removal piles.

Disturbance Zone Monitoring

Disturbance zones, described previously in Monitoring and Mitigation section, are defined in Table 2 for underwater sound. Monitoring zones for Level B harassment from airborne sound would be 96m for harbor seals and 38m for sea lions (corresponding to the anticipated extent of airborne sound reaching 90 and 100 dB, respectively) during impact pile driving, and 83m and 17m (respectively) during vibratory pile driving.

The size of the disturbance zone for in-water monitoring for vibratory pile installation or extraction would be the full line of sight from pile driving activities in both the upstream and downstream directions. Monitoring for impact pile driving of concrete piles will extend 117m from the pile driving, and will require only a single monitor at the project location.

The monitoring biologists would document all pinnipeds observed in the monitoring area. Data collection would include a count of all pinnipeds observed by species, sex, age class, their location within the zone, and their reaction (if any) to construction activities, including direction of movement, and type of construction that is occurring, time that pile driving begins and ends, any acoustic or visual disturbance, and time of the observation. Environmental conditions

such as wind speed, wind direction, visibility, and temperature would also be recorded. No monitoring would be conducted during inclement weather that creates potentially hazardous conditions, as determined by the biologist, nor would monitoring be conducted when visibility is significantly limited, such as during heavy rain or fog. During these times of inclement weather, in-water work that may produce sound levels in excess of 190 dB rms would be halted; these activities would not commence until monitoring has started for the day.

All monitoring personnel must have appropriate qualifications as identified previously; with qualifications to be certified by POK (see Monitoring and Mitigation). These qualifications include education and experience identifying pinnipeds in the Columbia River and the ability to understand and document pinniped behavior. All monitoring personnel would meet at least once for a training session sponsored by POK. Topics would include: Implementation of the protocol, identifying marine mammals, and reporting requirements.

All monitoring personnel would be provided a copy of the LOA and final biological opinion for the project. Monitoring personnel must read and understand the contents of the LOA and biological opinion as they relate to coordination, communication, and identifying and reporting incidental harassment of pinnipeds.

Estimated Take by Incidental Harassment

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]. Take by Level B harassment only is anticipated as a result of POK's proposed project. Take of marine mammals is anticipated to be associated with the installation and removal of piles via impact and vibratory methods. Dredging is not anticipated to result in take of marine mammals. No take by injury, serious injury, or death is anticipated.

TABLE 3—CURRENT ACOUSTIC EXPOSURE CRITERIA

Non-explosive sound		
Criterion	Criterion definition	Threshold
Level A Harassment (Injury)	Permanent Threshold Shift (PTS) (Any level above that which is known to cause TTS).	180 dB re 1 microPa-m (cetaceans)/190 dB re 1 microPa-m (pinnipeds) root mean square (rms).
Level B Harassment	Behavioral Disruption (for impulse noises)	160 dB re 1 microPa-m (rms).
Level B Harassment	Behavioral Disruption (for continuous, noise)	120 dB re 1 microPa-m (rms).

The area of potential Level B harassment varies with the activity being conducted. For impact pile driving that will be used for the concrete piles, the area of potential harassment extends 117m from the pile driving activity. For vibratory pile driving associated with the installation of steel pipe piles, the zone of potential harassment extends in a line of sight from the pile driving activities to the nearest shoreline, covering an area of approximately 1800 acres of riverine habitat (Figure 1). Because there are no haul outs, feeding areas, or other important habitat areas for marine mammals in the action area, it is anticipated that take exposures will result primarily from animals transiting from downstream areas to upstream feeding areas.

Assumptions regarding numbers of pinnipeds and number of round trips per individual per year in the Region of Activity are based on information from ongoing pinniped research and management activities conducted in response to concern over California sea lion predation on fish populations concentrated below Bonneville Dam. An intensive monitoring program has been conducted in the Bonneville Dam tailrace since 2002, using surface observations to evaluate seasonal presence, abundance, and predation activities of pinnipeds. Minimum estimates of the number of pinnipeds present in the tailrace from 2002 through 2014 are presented in Table 4.

TABLE 4—MINIMUM ESTIMATED TOTAL NUMBERS OF PINNIPEDS PRESENT AT BONNEVILLE DAM ON AN ANNUAL BASIS FROM 2002 THROUGH 2013 (STANSELL ET AL., 2013)

Species	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Harbor seals	1	2	2	1	3	2	2	2	2	1	0	0
California sea lions	30	104	99	81	72	71	82	54	89	54	39	56
Steller sea lions	0	3	3	4	11	9	39	26	75	89	73	80

Harbor Seals

There is no documented breeding or pupping activity in the action area (Jeffries 1985), and only adult males and females are anticipated to be present in the action area. There is no current data estimating abundance of harbor seals either locally or for the Oregon-Washington coastal stock (Carretta et al. 2014). In this case, we must rely on estimates provided in the application that are believed to provide a conservative estimate of the number of harbor seals potentially affected by the proposed action. The conservative estimate of harbor seals likely to be present in the action area when construction activities are occurring is up to 10 animals per day based on local anecdotal reports (lacking local observational data), with the animals primarily transiting between the mouth of the Columbia River and the Cowlitz or Kalama Rivers. Because harbor seals occur in the action area throughout the year, and in-water construction activities are expected to take up to 120 days, it is possible that harbor seals could be exposed above the Level B harassment threshold up to 1200 times,

although some of these exposures would likely be exposures of the same individual across multiple days so the number of individual harbor seals taken is likely lower. We believe that this estimate is doubly conservative, because the majority of pile driving work will be impact pile driving of concrete piles. Impact pile driving of concrete piles has a much smaller area of potential harassment (a radius of 117m from pile driving) than vibratory pile driving, and this area covers only approximately 1/6th of the channel width of the Columbia River, indicating a large portion of the river will be passable by pinnipeds without experiencing take in the form of harassment during most pile driving activities.

California Sea Lions

California sea lions are the most frequently observed pinnipeds upstream of the project site. California sea lions do not breed or bear their young near the Columbia River watershed, with the nearest breeding grounds off the coast of southern California (Caretta et al. 2014). There are no documented haulouts within the action area, so the only California sea lions expected to be present in the action area are adult males and females traveling to and from dams upstream of the project location.

For California sea lions, we use the maximum observed abundance at the Bonneville Dam since monitoring began in 2002 (Table 4) as our starting point. With a maximum observed number of California sea lions being 104 in 2003, we assume that each sea lion would transit the action area twice, once on the way to the dam on once returning from the dam, resulting in 208 transits per year. With the project in-water activities occurring for up to 120 days, we then assume that no more than ⅓ of the sea lion run would be exposed for the duration of the project, resulting in up to an estimated 70 take exposures. This provides a conservative estimate because sea lion abundance upstream of the project area occurs March through April (Stansell et al. 2013), which the in-water work window of September 1 through January 31 avoid. Additionally, the majority of pile driving work will be impact pile driving of concrete piles. Impact pile driving of concrete piles has a much smaller area of potential harassment (a radius of 117m from pile driving) than vibratory pile driving, and this area covers only approximately 1/6th of the channel width of the Columbia River, indicating a large portion of the river will be passable by pinnipeds without experiencing take in the form of harassment during most pile driving activities. Thus we would expect that less than ⅓ of the transits would occur during the project's in-water work window based on avoiding peak transit periods, and that some proportion of those transits would occur in unaffected areas of the Columbia River during impact pile driving activities.

Steller Sea Lions

Steller sea lions do not breed or bear their young near the Columbia River watershed, with the nearest breeding grounds on the marine coast of Oregon (Stansell et al. 2013). There are no documented haulouts within the action area, so the only Steller sea lions expected to be present in the action area are adult males and females traveling to and from dams upstream of the project location.

For Steller sea lions, we use the maximum observed abundance at the Bonneville Dam since monitoring began in 2002 (Table 4) as our starting point. With a maximum observed number of Steller sea lions being 89 in 2011, we assume that each sea lion would transit the action area twice, once on the way to the dam on once returning from the dam. To account for a slight trend of increasing numbers of Steller sea lions being observed each year, we assume up to 100 individuals may pass the project site during the year which this authorization is active, providing an estimate of 200 transits per year. With the project in-water activities occurring for up to 120 days, we then then assume that no more than ⅓ of the sea lion run would be exposed for the duration of the project, resulting in up to an estimated 68 take exposures. This provides a conservative estimate because sea lion abundance upstream of the project area occurs March through April (Stansell et al. 2013), which the in-water work window of September 1 through January 31 avoid. Additionally, the majority of pile driving work will be impact pile driving of concrete piles. Impact pile driving of concrete piles has a much smaller area of potential harassment (a radius of 117m from pile driving) than vibratory pile driving, and this area covers only approximately 1/6th of the channel width of the Columbia River, indicating a large portion of the river will be passable by pinnipeds without experiencing take in the form of harassment during most pile driving activities. Thus we would expect that less than ⅓ of the transits would occur during the project's in-water work window based on avoiding peak transit periods, and that some proportion of those transits would occur in unaffected areas of the Columbia River during impact pile driving activities.

Analysis and Preliminary Determinations

Negligible Impact

Negligible impact is ''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'', NOAA Fisheries must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, and the status of the species. To avoid repetition, the discussion of our analyses applies to all three species of pinnipeds (harbor seals, California sea lions, and Steller sea lions), given that the anticipated effects of this project on these species are expected to be relatively similar in nature. There is no information about the nature or severity of the impacts, or the size, status, or structure of any species or stock that would lead to a different analysis for any species, else species-specific factors would be identified and analyzed.

Incidental take, in the form of Level B harassment only, is likely to occur primarily as a result of pinniped exposure to elevated levels of sound caused by impact and vibratory installation and removal of pipe and sheet pile and steel casings. No take by injury, serious injury, or death is anticipated or would be authorized. By incorporating the proposed mitigation measures, including pinniped monitoring and shut-down procedures described previously, harassment to individual pinnipeds from the proposed activities is expected to be limited to temporary behavioral impacts. POK assumes that all individuals travelling past the project area would be exposed each time they pass the area and that all exposures would cause disturbance. NOAA Fisheries agrees that this represents a worst-case scenario and is therefore sufficiently precautionary.

There are no pinniped haul-outs or rookeries located within or near the Region of Activity.

The shutdown zone monitoring proposed as mitigation, and the small size of the zones in which injury may occur, makes any potential injury of pinnipeds extremely unlikely, and therefore discountable. Because pinniped exposures would be limited to the period they are transiting the disturbance zone, with potential repeat exposures (on return to the mouth of the Columbia River) separated by days to weeks, the probability of experiencing TTS is also considered unlikely.

In addition, it is unlikely that pinnipeds exposed to elevated sound levels would temporarily avoid traveling through the affected area, as they are highly motivated to travel through the action area in pursuit of foraging opportunities upriver. Sea lions have shown increasing habituation in recent years to various hazing techniques used to deter the animals from foraging in the Bonneville tailrace area, including acoustic deterrent devices, boat chasing, and above-water pyrotechnics (Stansell et al. 2013). Many of the individuals that travel to the tailrace area return in subsequent years (Stansell et al. 2013). Therefore, it is likely that pinnipeds would continue to pass through the action area even when sound levels are above disturbance thresholds.

Although pinnipeds are unlikely to be deterred from passing through the area, even temporarily, they may respond to the underwater sound by passing through the area more quickly, or they may experience stress as they pass through the area. Sea lions already move quickly through the lower river on their way to foraging grounds below Bonneville Dam (transit speeds of 4.6 km/hr in the upstream direction and 8.8 km/hr in the downstream direction [Brown et al. 2010]). Any increase in transit speed is therefore likely to be slight. Another possible effect is that the underwater sound would evoke a stress response in the exposed individuals, regardless of transit speed. However, the period of time during which an individual would be exposed to sound levels that might cause stress is short given their likely speed of travel through the affected areas. In addition, there would be few repeat exposures for individual animals. Thus, it is unlikely that the potential increased stress would have a significant effect on individuals or any effect on the population as a whole.

Therefore, NOAA Fisheries finds it unlikely that the amount of anticipated disturbance would significantly change pinnipeds' use of the lower Columbia River or significantly change the amount of time they would otherwise spend in the foraging areas below Bonneville Dam. Pinniped usage of the Bonneville Dam foraging area, which results in transit of the action area, is a relatively recent learned behavior resulting from human modification (*i.e.,* fish accumulation at the base of the dam). Even in the unanticipated event that either change was significant and animals were displaced from foraging areas in the lower Columbia River, there are alternative foraging areas available to the affected individuals. NOAA Fisheries does not anticipate any effects on haul-out behavior because there are no proximate haul-outs within the areas affected by elevated sound levels. All other effects of the proposed action are at most expected to have a discountable or insignificant effect on pinnipeds, including an insignificant reduction in the quantity and quality of prey otherwise available.

Any adverse effects to prey species would occur on a temporary basis during project construction. Given the large numbers of fish in the Columbia River, the short-term nature of effects to fish populations, and extensive BMPs and minimization measures to protect fish during construction, as well as conservation and habitat mitigation measures that would continue into the future, the project is not expected to have significant effects on the distribution or abundance of potential prey species in the long term. All project activities would be conducted using the BMPs and minimization measures, which are described in detail in NOAA Fisheries' biological opinion, pursuant to section 7 of the ESA, on the effects of the POK project on ESA-listed species. Therefore, these temporary impacts are expected to have a negligible impact on habitat for pinniped prey species.

A detailed description of potential impacts to individual pinnipeds was provided previously in this document. The following sections put into context what those effects mean to the respective populations or stocks of each of the pinniped species potentially affected.

Harbor Seal

The Oregon/Washington coastal stock of harbor seals consisted of about 24,732 animals in 1999 (Carretta et al. 2014). As described previously, both the Washington and Oregon portions of this stock have reached carrying capacity and are no longer increasing, and the stock is believed to be within its optimum sustained population level (Jeffries et al. 2003; Brown et al. 2005). The estimated take of up to 1200 individuals (though likely somewhat fewer, as the estimate really indicates instances of take and some individuals are likely taken more than once across the 120-day period) by Level B harassment is small relative to a stable population of approximately 25,000 (4.8 percent), and is not expected to impact annual rates of recruitment or survival of the stock.

California Sea Lion

The U.S. stock of California sea lions had a minimum estimated population of 153,337 in the 2013 Stock Assessment Report and may be at carrying capacity, although more data are needed to verify that determination (Carretta et al. 2014). The estimated take of 70 individuals by Level B harassment is small relative to a population of approximately 153,337 (>0.1 percent), and is not expected to impact annual rates of recruitment or survival of the stock.

Steller Sea Lion

The total population of the eastern DPS of Steller sea lions had a minimum estimated population of 59,968 animals with an overall annual rate of increase of 4 percent throughout most of the range (Oregon to southeastern Alaska) since the 1970s (Allen and Angliss, 2015). In 2006, the NOAA Fisheries Steller sea lion recovery team proposed removal of the eastern stock from listing under the ESA based on its annual rate of increase, and the population was delisted in 2013 (though still considered depleted under the MMPA). The total estimated take of 68 individuals per year is small compared to a population of approximately 59,968 (0.1 percent) and is not expected to impact annual rates of recruitment or survival of the stock.

Summary

The anticipated behavioral harassment is not expected to impact recruitment or survival of the any affected pinniped species. The Level B harassment experienced is expected to be of short duration, with 1–2 exposures per individual separated by days to weeks, with each exposure resulting in minimal behavioral effects (increased transit speed or avoidance). For all species, because the type of incidental harassment is not expected to actually remove individuals from the population or decrease significantly their ability to feed or breed, this amount of incidental harassment is anticipated to have a negligible impact on the stock.

Based on the analysis contained herein of the likely effects of the

specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, NOAA Fisheries preliminarily finds that POK's proposed activities would have a negligible impact on the affected species or stocks.

Small Numbers

Using the estimated take described previously, the species with the greatest proportion of affected population is harbor seals (Table 5), with an estimated 4.8% of the population potentially experiencing take from the proposed action. California sea lions population will experience less than 0.1% exposure, and Steller sea lions an approximate exposure rate of 0.1%. Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, NOAA Fisheries preliminarily finds that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

TABLE 5—ESTIMATED TAKE PROPOSED TO BE AUTHORIZED AND PROPORTION OF POPULATION POTENTIALLY AFFECTED

	Estimated take by level B harassment	Abundance of stock	Percentage of stock potentially affected (%)	Population trend
Harbor Seal	1200	24,732	4.8	Stable/Carrying Capacity.
California Sea Lion	70	153,337	>0.1	Stable.
Steller Sea Lion	68	59,968	0.1	Increasing.

Impact on Availability of Affected Species for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action. Therefore, NOAA Fisheries has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

No species of marine mammal listed under the ESA are expected to be affected by these activities. Therefore, NOAA Fisheries has determined that a section 7 consultation under the ESA is not required.

National Environmental Policy Act (NEPA)

NOAA Fisheries is also preparing an Environmental Assessment (EA) in accordance with the National Environmental Policy Act (NEPA) and will consider comments submitted in response to this notice as part of that process. The EA will be posted at the foregoing internet site once it is finalized.

Proposed Authorization

As a result of these preliminary determinations, NOAA Fisheries proposes to issue an IHA to Port of Kalama for constructing the Kalama Marine Manufacturing and Export Facility on the Columbia River during the 2016–2017 in-water work season, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The proposed IHA language is provided next.

Draft Proposed Authorization

This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued).

Incidental Harassment Authorization

We hereby authorize the Port of Kalama (POK), 110 West Marine Drive, Kalama, WA 98625, under section 101(a)(5)(D) of the Marine Mammal Protection Act (MMPA) ((16 U.S.C. 1371(a)(5)(D)) and 50 CFR 216.107, to harass small numbers of marine mammals incidental to construction of the Kalama Manufacturing and Marine Export Facility on the Columbia River during the 2016–2017 in-water construction season. A copy of this Authorization must be in the possession of all contractors and protected species observers operating under the authority of this Incidental Harassment Authorization.

1. Effective Dates

This authorization is valid from September 1, 2016 through August 31, 2017.

2. Specified Geographic Region

This Authorization is valid only for specified activities associated with the POK's construction activities as specified in POK's Incidental Harassment Authorization (Authorization) application in the following specified geographic area:

—The Columbia River, approximately river mile 72, from Latitude 46.0482, Longitude −122.8755, to the nearest shore by line of sight from project activities as specified in the application, an area consisting of approximately 1800 acres of tidally influenced riverine habitat.

3. Species Authorized and Level of Take

This authorization limits the incidental taking of marine mammals, by Level B harassment only, to the following species: Harbor seal (*Phoca vitulina*), California sea lion (*Zalophus californianus*), and Steller sea lion (*Eumatopius jubatus*). The taking by injury, serious injury, or death of any species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this authorization.

4. Cooperation

We require the holder of this Authorization to cooperate with the Office of Protected Resources, National Marine Fisheries Service, and any other Federal, state, or local agency monitoring the impacts of the proposed activity on marine mammals.

5. Mitigation and Monitoring Requirements

We require the holder of this Authorization to implement the following mitigation and monitoring requirements when conducting the specified activities to achieve the least practicable adverse impact on affected marine mammal species or stocks:

Visual Observers

Utilized one, NOAA Fisheries qualified Protected Species Visual Observer (observer) to watch for and monitor marine mammals near the proposed in-water construction during all in-water pile driving, three observers for any impact pile driving of steel piles,

and three observers for the first two days, and thereafter every third day during in-water vibratory pile driving and removal to allow for estimation of the number of take exposures.

Exclusion Zones

Establish and maintain a 190-dB exclusion zone for pinnipeds during all impact and vibratory pile driving activities (10 m for impact of concrete piles and all vibratory pile driving, and 18m in the event that impact pile driving is required for steel piles). The exclusion zone must be monitored and be free of marine mammals for at least 15 minutes before pile driving activities can commence.

Recording Visual Detections

Visual observers must record the following information when they have sighted a marine mammal:

—Species, age/size/sex (if determinable), behavior when first sighted and after initial sighting, heading, distance, and changes in behavior in response to construction activities.

Shutdown Proceedures

Immediately suspend pile driving activities if a visual observer detects a marine mammal within, or entering the exclusion zone (10m exclusion zone for all pile driving activity, and 18m exclusion zone for impact pile driving of steel piles). Pile driving activities will not be resumed until the exclusion zone has been observed as being mammal free for at least 15 minutes.

6. Reporting Requirements

This Authorization requires the holder to submit a draft report on all activities and monitoring results to the Office of Protected Resources, NOAA Fisheries, within 90 day s of completion of in-water construction activities. This report must contain and summarize the following information:

—Dates, times, weather, and visibility conditions during all construction associated in-water work and marine mammal sightings;

—Species, number, location, distance from activity, behavior of any observed marine mammals, and any required shutdowns throughout all monitoring activities;

—An estimate of the number, by species, of marine mammals with exposures to sound energy levels greater than, or equal to, 160 dB for impact pile driving and 120 dB for vibratory pile driving.

Additionally, the Port of Kalama must submit a final report to the Chief, Permits and Conservation Division, Office of Protected Resources, NOAA Fisheries, within 30 days after receiving comments from us on the draft report. If we decide the draft report needs no comments, we will consider the draft report to be the final report.

7. Reporting Prohibited Take

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner not permitted by the authorization (if issued), such as an injury, serious injury, or mortality (*e.g.,* ship-strike, gear interaction, and/or entanglement), the Port of Kalama shall immediately cease the specified activities and immediately report the take to the Chief, Permits and Conservation Division, Office of Protected Resources, NOAA Fisheries, at 301–427–8401 and/or by email. The report must include the following information:

—Time, date, and location (latitude/longitude) of the incident;

—Name and type of vessel involved;

—Vessel's speed during and leading up to the incident;

—Description of the incident;

—Status of all sound source use in the 24 hours preceding the incident;

—Water depth;

—Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);

—Description of all marine mammal observations in the 24 hours preceding the incident;

—Species identification or description of the animal(s) involved;

—Fate of the animal(s); and

—Photographs or video footage of the animal(s) (if equipment is available).

The Port of Kalama shall not resume its activities until we are able to review the circumstances of the prohibited take. We shall work with the Port of Kalama to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The Port of Kalama may not resume their activities until notified by us via letter, email, or telephone.

8. Reporting an Injured or Dead Marine Mammal With an Unknown Cause of Death

In the event that the Port of Kalama discovers an injured or dead marine mammal, and the lead visual observer determines that the cause of the injury or death is unknown, and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as we describe in the next paragraph), the Port of Kalama will immediately report the incident to the Chieve, Permits and Conservation Division, Office of Protected Resources, NOAA Fisheries, at 301–427–8401, and/or by email. The report must include the same information identified in the paragraph above this section. Activities may continue while NOAA Fisheries reviews the circumstances of the incident. NOAA Fisheries would work with the Port of Kalama to determine whether modifications in the activities are appropriate.

9. Reporting an Injured or Dead Marine Mammal Unrelated to the Activities

In the event that the Port of Kalama discovers and injured or dead marine mammal, and the lead observer determines that the injury or death is not associated with or related to the authorized activities (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the Port of Kalama would report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NOAA Fisheries, at 301–427–8401, and/or by email, within 24 hours of the discovery. The Port of Kalama would provide photographs or video footage or other documentation of the animal sighting to NOAA Fisheries.

Request for Public Comments

NOAA Fisheries requests comment on our analysis, the draft authorization, and any other aspect of the Notice of Proposed IHA for the Port of Kalama's construction of Kalama Marine Manufacturing and Export Facility. Please include with your comments any supporting data or literature citations to help inform our final decision on Port of Kalama's request for an MMPA authorization.

Dated: March 9, 2016.

Perry F. Gayaldo,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2016–06252 Filed 3–18–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2016–OS–0022]

Proposed Collection; Comment Request

AGENCY: Defense Security Service, DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995*, the Center for Development of Security

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

DATES: Consideration will be given to all comments received by May 20, 2016.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301–9010.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Center for Development of Security Excellence, Training Division, ATTN: Brian K. Miller Curtis, 938 Elkridge Landing Road, Linthicum, MD 21090–2917 or call 1–410–689–1134.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Student Learning Event Evaluation Surveys, OMB Control Number 0704–XXXX.

Needs and Uses: The information collection requirement is necessary to obtain and record the experiences and evaluations of services and products from education and training customers of the Center for Development of Security Excellence. The information collection will include four surveys tailored to the delivery mode of the learning event, and the respondent will be asked to complete one survey per learning event. The number of questions asked reflects the category of the learning event completed. The four learning event categories are (a) eLearning Mode End of Course Student Feedback Survey, (b) Instructor-Led Mode End of Course Student Feedback Survey, (c) Virtual Instructor-Led Mode End of Course Student Feedback Survey, (d) Webinar Experience Survey. The feedback provided will be aggregated and analyzed for the purpose of assessing and improving the availability, effectiveness, and usability of training and education services and products made available to employees of the DoD, employees of participants in the National Industrial Security Program, employees of other Federal Departments and State, and Local Governments, and other users. No personally identifiable information is requested and anonymity of responses is maintained. Responses are aggregated for reports that are reviewed by CDSE instructors, course developers, and management. Responses are used in the conduct of continuous evaluation of education and training activities required by DoDM 3115.11, March 24, 2015, and 5 CFR 410.202.

Affected Public: Business or other for profit; Not-for-profit institutions.

Annual Burden Hours: 50,000.

Number of Respondents: 300,000.

Responses per Respondent: 1.

Annual Responses: 300,000.

Average Burden per Response: 10 minutes.

Frequency: On occasion.

Respondents are education and training services customers of the CDSE who are pursuing professional development in security or are required to complete courses by their employers. Burden is reported as an annual average, and the actual burden depends on the number of learning events attended and the mode of learning event delivery.

Dated: March 15, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–06245 Filed 3–18–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Carol M. White Physical Education Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

Overview Information

Carol M. White Physical Education Program

Notice inviting applications for new awards for fiscal year (FY) 2016.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.215F.

DATES:

Applications Available: March 21, 2016.

Deadline for Transmittal of Applications: May 20, 2016.

Deadline for Intergovernmental Review: July 19, 2016.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Carol M. White Physical Education Program (PEP) provides grants to local educational agencies (LEAs) and community-based organizations (CBOs) to initiate, expand, and improve physical education for students in grades K–12. Grant recipients must implement programs that help students make progress toward meeting State physical education standards.

Priorities: This notice contains one absolute priority, three competitive preference priorities, and one invitational priority. The absolute priority and Competitive Preference Priority 1 are from the notice of final priorities, requirements, and definitions for this program published in the **Federal Register** on June 18, 2010 (75 FR 34892). Competitive Preference Priority 2 and Competitive Preference Priority 3 are from the Department's notice of final supplemental priorities and definitions for discretionary grant programs, published in the **Federal Register** on December 10, 2014 (79 FR 73426). The invitational priority is based on 34 CFR 75.226(d)(4).

Absolute Priority: For FY 2016 and any subsequent year in which we make awards from the list of unfunded

applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

Programs Designed To Create Quality Physical Education Programs

Under this priority, an applicant is required to develop, expand, or improve its physical education program and address its State's physical education standards by undertaking the following activities: (1) Instruction in healthy eating habits and good nutrition and (2) physical fitness activities that must include at least one of the following: (a) Fitness education and assessment to help students understand, improve, or maintain their physical well-being; (b) instruction in a variety of motor skills and physical activities designed to enhance the physical, mental, and social or emotional development of every student; (c) development of, and instruction in, cognitive concepts about motor skills and physical fitness that support a lifelong healthy lifestyle; (d) opportunities to develop positive social and cooperative skills through physical activity participation; or (e) opportunities for professional development for teachers of physical education to stay abreast of the latest research, issues, and trends in the field of physical education.

Competitive Preference Priorities: For FY 2016 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i) we will award an additional five points to an application that meets Competitive Preference Priority 1, an additional five points to an application that meets Competitive Preference Priority 2, and an additional five points to an application that meets Competitive Preference 3. The maximum number of competitive preference points an application can receive for this competition is 15.

Note: In order to be eligible for earning competitive preference priority points, an applicant must identify in the abstract section of its application the competitive preference priority or priorities for which it is seeking points.

Applications that fail to clearly identify in the abstract section the competitive preference priority or priorities for which they are seeking to earn points will not be reviewed against the competitive preference priority and will not be awarded competitive preference priority points.

These priorities are:

Competitive Preference Priority 1: Partnerships Between Applicants and Supporting Community Entities

We will give a competitive preference priority to an applicant that includes in its application an agreement that details the participation of required partners, as defined in this notice. The agreement must include a description of: (1) Each partner's roles and responsibilities in the project; (2) how each partner will contribute to the project, including any contribution to the local match; (3) an assurance that the application was developed after timely and meaningful consultation between the required parties, as defined in this notice; and (4) a commitment to work together to reach the desired goals and outcomes of the project. The partner agreement must be signed by the Authorized Representative of each of the required partners and by other partners as appropriate.

For an LEA applicant, this partnership agreement must include: (1) The LEA; (2) at least one CBO; (3) a local public health entity, as defined in this notice; (4) the LEA's food service or child nutrition director; and (5) the head of the local government, as defined in this notice.

For a CBO applicant, the partnership agreement must include: (1) The CBO; (2) a local public health entity, as defined in this notice; (3) a local organization supporting nutrition or healthy eating, as defined in this notice; (4) the head of the local government, as defined in this notice; and (5) the LEA from which the largest number of students expected to participate in the CBO's project attend. If the CBO applicant is a school, such as a parochial or other private school, the applicant must describe its school as part of the partnership agreement but is not required to provide an additional signature from an LEA or another school. A CBO applicant that is a school and serves its own population of students is required to include another CBO as part of its partnership and include the head of that CBO as a signatory on the partnership agreement.

Although partnerships with other parties are required for this priority, the eligible applicant must retain the administrative and fiscal control of the project.

Competitive Preference Priority 2—Development of Non-Cognitive Factors

We will give a competitive preference priority to an applicant that includes in its application projects that are designed to improve students' mastery of non-cognitive skills and behaviors (such as academic behaviors, academic mindset, perseverance, self-regulation, social and emotional skills, and approaches toward learning strategies) and enhance student motivation and engagement in learning.

Competitive Preference Priority 3—Supporting High-Need Students

We will give a competitive preference priority to an applicant that includes in its application projects designed to improve academic outcomes; learning environments; or both for students in lowest-performing schools.

Invitational Priority: For FY 2016 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an invitational priority. Under 34 CFR 75.105(c)(1) we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

Invitational Priority—Evidence of Promise

Projects in which physical education or nutrition education programs and practices are supported by research studies that demonstrate evidence of promise as defined in 34 CFR 77.1(c).

Note: Under this priority, we are inviting applications that meet the evidence of promise standard as defined in 34 CFR 77.1(c). Each applicant is encouraged to submit a citation for the study or studies that supports the applicant's proposed process, strategy, or practice and that the applicant provides as justification that it meets the evidence of promise standard. If applicable and available, the on-line link for the citation should be provided in the Abstract.

Requirements

The following requirements, which are from the notice of final priorities, requirements, and definitions for this program published in the **Federal Register** on June 18, 2010 (75 FR 34892), apply to this competition:

Requirement 1—Align Project Goals With Identified Needs Using the School Health Index (SHI)

Applicants must complete the physical activity and nutrition questions in Modules 1–4 of the Center for Disease Control's (CDC's) SHI self-assessment tool and develop project goals and plans that address the identified needs. Modules 1–4 are School Health and Safety Policies and Environment, Health Education, Physical Activity and Other Physical Activity Programs, and Nutrition Services. LEA applicants must use the SHI self-assessment to develop a School Health Improvement Plan focused on improving these issues, and

design an initiative that addresses their identified gaps and weaknesses. Applicants must include their Overall Score Card for the questions answered in Modules 1–4 in their application, and correlate their School Health Improvement Plan to their project design. Grantees must also complete the same modules of the SHI at the end of the project period and submit the Overall Score Card from the second assessment in their final reports to demonstrate SHI completion and program improvement as a result of PEP funding.

If a CBO applicant (unless the CBO is a school) is in a partner agreement with an LEA or school, it must collaborate with its partner or partners to complete Modules 1–4 of the SHI.

Alternatively, if the CBO has not identified a school or LEA partner, the CBO is not required to do Modules 1–4 of the SHI but must use an alternative needs assessment tool to assess the nutrition and physical activity environment in the community for children. CBO applicants are required to include their overall findings from the community needs assessment and correlate their findings with their project design. Grantees will be required to complete the same needs assessment at the end of their project and submit their findings in their final reports to demonstrate the completion of the assessment and program involvement as a result of PEP funding.

Requirement 2—Nutrition- and Physical Activity-Related Policies

Grantees must develop, update, or enhance physical activity policies and food- and nutrition-related policies that promote healthy eating and physical activity throughout students' everyday lives, as part of their PEP projects. Applicants must describe in their application their current policy framework, areas of focus, and the planned process for policy development, implementation, review, and monitoring. Grantees will be required to detail at the end of their project period in their final reports the physical activity and nutrition policies selected and how the policies improved through the course of the project.

Applicants must sign a Program-Specific Assurance that commits them to developing, updating, or enhancing these policies during the project period. Applicants that do not submit such a Program-Specific Assurance signed by the applicant's Authorized Representative are ineligible for the competition.

Requirement 3—Linkage With Local Wellness Policies

Applicants that are participating in a program authorized by the Richard B. Russell National School Lunch Act and the Child Nutrition and WIC Reauthorization Act of 2004 must describe in their applications their school district's established local wellness policy and how the proposed PEP project will align with, support, complement, and enhance the implementation of the applicant's local wellness policy. The LEA's local wellness policy should address all requirements in the Child Nutrition Act of 1966. CBO applicants must describe in their applications how their proposed projects would enhance or support the intent of the local wellness policies of their LEA partner(s), if they are working in a partnership group.

If an applicant or a member of its partnership group does not participate in the school lunch program authorized by the Richard B. Russell National School Lunch Act and the Child Nutrition Act and the WIC Reauthorization Act of 2004, it will not necessarily have a local wellness policy and, thus, is not required to meet this requirement or adopt a local wellness policy. However, we encourage those applicants to develop and adopt a local wellness policy, consistent with the provisions in the Richard B. Russell National School Lunch Act and the Child Nutrition Act and the WIC Reauthorization Act of 2004 in conjunction with its PEP project.

Applicants must sign a Program-Specific Assurance that commits them to align their PEP project with the district's Local Wellness Policy, if applicable. Applicants to whom this requirement applies that do not submit a Program-Specific Assurance signed by the applicant's Authorized Representative are ineligible for the competition.

Requirement 4—Equipment Purchases

Purchases of equipment with PEP funds or with funds used to meet the program's matching requirement must be aligned with the curricular components of the proposed physical education and nutrition program. Applicants must commit to aligning the students' use of the equipment with PEP elements applicable to their projects, identified in the absolute priority in this notice, and any applicable curricula by signing a Program-Specific Assurance. Applicants that do not submit a Program-Specific Assurance signed by the applicant's Authorized Representative are ineligible for the competition.

Requirement 5—Increasing Transparency and Accountability

Grantees must create or use existing reporting mechanisms to provide information on students' progress, in the aggregate, on the key program indicators, as described in this notice and required under the Government Performance and Results Act, as well as on any unique project-level measures proposed in the application. Grantees that are educational agencies or institutions are subject to applicable Federal, State, and local privacy provisions, including the Family Educational Rights and Privacy Act—a law that generally prohibits the non-consensual disclosure of personally identifiable information in a student's education record. All grantees must comply with applicable Federal, State, and local privacy provisions. The aggregate-level information should be easily accessible by the public, such as posted on the grantee's or a partner's Web site. Applicants must describe in their application the planned method for reporting.

Applicants must commit to reporting information to the public by signing a Program-Specific Assurance. Applicants that do not submit a Program-Specific Assurance signed by the applicant's Authorized Representative are ineligible for the competition.

Definitions: The definitions are from the notice of final priorities, requirements, and definitions published in the **Federal Register** on June 18, 2010 (75 FR 34892); the Department's Notice of Final Supplemental Priorities and Definitions for Discretionary Grant Programs, published in the **Federal Register** on December 10, 2014 (79 FR 73453); the ESEA; and the Education Department General Administrative Regulations. After each definition, we identify its source.

Community-based organization means a public or private nonprofit organization of demonstrated effectiveness that—

(a) Is representative of a community or significant segments of a community; and

(b) Provides educational or related services to individuals in the community. (ESEA section 9101(6)).

Evidence of promise means there is empirical evidence to support the theoretical linkage(s) between at least one critical component and at least one relevant outcome presented in the logic model for the proposed process, product, strategy, or practice. Specifically, evidence of promise means

the conditions in both paragraphs (i) and (ii) of this definition are met:

(i) There is at least one study that is a—

(A) Correlational study with statistical controls for selection bias;

(B) Quasi-experimental design study that meets the What Works Clearinghouse Evidence Standards with reservations; or

(C) Randomized controlled trial that meets the What Works Clearinghouse Evidence Standards with or without reservations.

(ii) The study referenced in paragraph (i) of this definition found a statistically significant or substantively important (defined as a difference of 0.25 standard deviations or larger) favorable association between at least one critical component and one relevant outcome presented in the logic model for the proposed process, product, strategy, or practice. (34 CFR 77.1(c)).

Head of local government means the head of, or an appropriate designee of, the party responsible for the civic functioning of the county, city, town, or municipality would be considered the head of local government. This includes, but is not limited to, the mayor, city manager, or county executive. (75 FR 34892, 34909).

Local educational agency (LEA) means:

(1) A public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.

(2) The term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

(3) The term includes an elementary school or secondary school funded by the Bureau of Indian Affairs but only to the extent that including the school makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this Act with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

(4) The term includes educational service agencies and consortia of those agencies.

(5) The term includes the State educational agency in a State in which the State educational agency is the sole educational agency for all public schools. (ESEA section 9101(26)).

Local public health entity means an administrative or service unit of local or State government concerned with health and carrying some responsibility for the health of a jurisdiction smaller than the State (except for Rhode Island and Hawaii, because these States' health departments operate on behalf of local public health and have no sub-State unit). The definition applies to the State health department or the State public health entity in the event that the local public health entity does not govern health and nutrition issues for the local area. (75 FR 34892, 34909).

Lowest-performing schools means, for a State with an approved request for flexibility under the Elementary and Secondary Education Act of 1965, as amended (ESEA), priority schools or Tier I and Tier II schools that have been identified under the School Improvement Grants program. For any other State, Tier I and Tier II schools that have been identified under the School Improvement Grants program.

Organization supporting nutrition or healthy eating means a local public or private non-profit school, health-related professional organization, local public health entity, or local business that has demonstrated interest and efforts in promoting student health or nutrition. This term includes, but is not limited to LEAs (particularly an LEA's school food or child nutrition director), grocery stores, supermarkets, restaurants, corner stores, farmers' markets, farms, other private businesses, hospitals, institutions of higher education, Cooperative Extension Service and 4H Clubs, and community gardening organizations, when such entities have demonstrated a clear intent to promote student health and nutrition or have made tangible efforts to do so. This definition does not include representatives from trade associations or representatives from any organization representing any producers or marketers of food or beverage product(s). (75 FR 34892, 34909).

Priority schools means schools that, based on the most recent data available, have been identified as among the lowest-performing schools in the State. The total number of priority schools in a State must be at least five percent of the Title I schools in the State. A priority school is—

(a) A school among the lowest five percent of Title I schools in the State based on the achievement of the ''all students'' group in terms of proficiency on the statewide assessments that are part of the SEA's differentiated recognition, accountability, and support system, combined, and has demonstrated a lack of progress on those assessments over a number of years in the ''all students'' group;

(b) A Title I-participating or Title I-eligible high school with a graduation rate that is less than 60 percent over a number of years; or

(c) A Tier I or Tier II school under the School Improvement Grant (SIG) program that is using SIG funds to implement a school intervention model.

Tier I schools means:

(a) A Title I school that has been identified as in improvement, corrective action, or restructuring under section 1116 of the Elementary and Secondary Education Act of 1965, as amended (ESEA) and that is identified by the SEA under paragraph (a)(1) of the definition of persistently lowest-achieving school.

(b) An elementary school that is eligible for Title I, Part A funds that—

(1)(i) Has not made adequate yearly progress for at least two consecutive years; or

(ii) Is in the State's lowest quintile of performance based on proficiency rates on the State's assessments under section 1111(b)(3) of the Elementary and Secondary Education Act of 1965, as amended (ESEA) in reading/language arts and mathematics combined; and

(2) Is no higher achieving than the highest-achieving school identified by the SEA under paragraph (a)(1)(i) of the definition of persistently lowest-achieving school.

Tier II schools means:

(a) A secondary school that is eligible for, but does not receive, Title I, Part A funds and is identified by the State educational agency (SEA) under paragraph (a)(2) of the definition of persistently lowest-achieving schools.

(b) A secondary school that is eligible for Title I, Part A funds that—

(1)(i) Has not made adequate yearly progress for at least two consecutive years; or

(ii) Is in the State's lowest quintile of performance based on proficiency rates on the State's assessments under section 1111(b)(3) of the Elementary and Secondary Education Act of 1965, as amended (ESEA), in reading/language arts and mathematics combined; and

(2)(i) Is no higher achieving than the highest-achieving school identified by the SEA under paragraph (a)(2)(i) of the

definition of persistently lowest-achieving school; or

(ii) Is a high school that has had a graduation rate, as defined in 34 CFR 200.19(b), that is less than 60 percent over a number of years.

Program Authority: 20 U.S.C. 7261–7261f.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485, and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended in 2 CFR part 3474. (c) The regulations in 34 CFR part 299. (d) The notice of final eligibility requirements for the Office of Safe and Drug-Free Schools discretionary grant programs published in the **Federal Register** on December 4, 2006 (71 FR 70369). (e) The notice of final priorities, requirements, and definitions published in the **Federal Register** on June 18, 2010 (75 FR 34892). (f) The notice of final supplemental priorities and definitions for discretionary grant programs published in the **Federal Register** on December 10, 2014 (79 FR 73453).

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $23,000,000

Estimated Range of Awards: $200,000–$800,000.

Estimated Average Size of Awards: $500,000.

Estimated Number of Awards: 15. We expect to make awards under this competition for the complete 3-year (36-month) period by front-loading all 3 years using FY 2016 funds. Additional information regarding this action can be found in the application package.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

III. Eligibility Information

1. Eligible Applicants: (a) LEAs, including charter schools that are considered LEAs under State law, and CBOs, including faith-based organizations provided that they meet the applicable statutory and regulatory requirements.

(b) The Secretary limits eligibility under this discretionary grant competition to LEAs or CBOs that do not currently have an active grant under PEP. For the purpose of this eligibility requirement, a grant is considered active until the end of the grant's project or funding period, including any extensions of those periods that extend the grantee's authority to obligate funds. (See the notice of final eligibility requirements for the Office of Safe and Drug-Free Schools discretionary grant programs published in the **Federal Register** on December 4, 2006 (71 FR 70369)).

2. (a) Cost Sharing or Matching: In accordance with section 5506 of the ESEA, the Federal share of the project costs may not exceed (i) 90 percent of the total cost of a program for the first year for which the program receives assistance; and (ii) 75 percent of such cost for the second and each subsequent year.

(b) Supplement-Not-Supplant: This competition involves supplement-not-supplant funding requirements. Funds made available under this program must be used to supplement, and not supplant, any other Federal, State, or local funds available for physical education activities in accordance with section 5507 of the ESEA.

3. Other: An application for funds under this program may provide for the participation, in the activities funded, of (a) students enrolled in private nonprofit elementary schools or secondary schools, and their parents and teachers; or (b) home-schooled students, and their parents and teachers.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *http://www.ed.gov/programs/whitephysed/applicant.html.* To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794.

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.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.215F.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the person listed under *Accessible Format* in section VII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative to no more than 30 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions. Double space is optional for the text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the abstract, the resumes, the bibliography, or the letters of support. However, the page limit does apply to all of the application narrative section.

Our reviewers will not read any pages of your application that exceed the page limit.

3. *Submission Dates and Times:*

Applications Available: March 21, 2016.

Deadline for Transmittal of Applications: May 20, 2016.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (*Grants.gov*). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic

submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: July 19, 2016.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* Funds may not be used for construction activities or for extracurricular activities, such as team sports and Reserve Officers' Training Corps program activities (See section 5503(c) of the ESEA).

In accordance with section 5505(b) of the ESEA, not more than five percent of grant funds provided under this program to an LEA or CBO for any fiscal year may be used for administrative expenses.

We reference additional regulations outlining funding restrictions in the Applicable Regulations section of this notice. Information about prohibited activities and use of funds also is included in the application package for this competition.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one-to-two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov and before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Carol M. White Physical Education Program, CFDA number 84.215F, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the Carol M. White Physical Education Program at *www.Grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.215, not 84.215F).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection.

Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

• You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system;

and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to either: Carlette KyserPegram, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E256, Washington, DC 20202–6450. FAX: (202) 453–6742.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.215F), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by

hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.215F), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 of EDGAR and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Special Conditions:* Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notice (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* The Secretary has established the following key performance measures for collecting data to use in assessing the effectiveness of PEP:

(a) The percentage of students served by the grant who engage in 60 minutes of daily physical activity.

(b) The percentage of students served by the grant who meet the standard of a healthy fitness zone as established by the assessment for the Presidential Youth Fitness Program (PYFP) in at least five of the six fitness areas of that assessment.

(c) The percentage of students served by the grant who consume fruit two or more times per day and vegetables three or more times per day as measured in programs serving high school students using the nutrition-related questions from the Youth Risk Behavior Survey and in programs serving elementary and middle school students using an appropriate assessment tool for their populations.

For each measure, grantees should collect and aggregate data from two discrete data collection periods throughout each year. During the first year, grantees have an additional data collection period prior to program implementation to collect baseline data.

(d) The cost (based on the amount of the grant award) per student who achieves the level of physical activity required to meet the physical activity measure above (*i.e.,* 60 minutes of daily physical activity).

These measures constitute the Department's measures of success for this program. Consequently, applicants for a grant under this program are advised to give careful consideration to these measures in conceptualizing the approach and evaluation of their proposed project. If funded, applicants will be asked to collect and report data in their performance and final reports about progress toward these measures.

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contacts

FOR FURTHER INFORMATION CONTACT: Carlette KyserPegram, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E256, Washington, DC 20202–6450. Telephone: 202–453–6732 or by email: *Carlette.KyserPegram@ed.gov.*

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

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 the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice.

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 Adobe 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: March 16, 2016.

Ann Whalen,

Senior Advisor to the Secretary Delegated the Duties of Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2016–06301 Filed 3–18–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL16–39–000]

Tri-State Generation and Transmission Association, Inc.; Notice of Supplement to Petition for Declaratory Order

Take notice that on March 10, 2016, pursuant to Rule 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2) (2015), Tri-State Generation and Transmission Association, Inc. (Petitioner) filed a supplement to its petition for declaratory order filed on February 17, 2016, requesting that the Commission find that its fixed cost recovery proposal contained in the proposed revised Board Policy 101 is consistent with the Public Utility Regulatory Policies Act of 1978 (PURPA) and the Commission's regulations implementing PURPA, as more fully explained in the petition.

Any person desiring to intervene or to protest in this proceeding must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on March 25, 2016.

Dated: March 15, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–06253 Filed 3–18–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL16–46–000]

LS Power Development, LLC; Cross Texas Transmission, LLC; Notice Of Petiton for Declaratory Order

Take notice that on March 10, 2016, pursuant to Rule 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207 (2015), LS Power Development, LLC and Cross Texas Transmission, LLC (Petitioners) filed a petition for declaratory order (petition) confirming that the provision of certain transmission operations control services by employees of Petitioners or any of their affiliates will not cause the Electricity Reliability Council of Texas (ERCOT), and/or ERCOT market participants to become subject to Commission jurisdiction under Part II of the Federal Power Act, 16 U.S.C. 824, *et seq.* (2012), all as more fully explained in the petition.

Any person desiring to intervene or to protest in this proceeding must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioners.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above proceeding are accessible in the Commission's

eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on April 11, 2016.

Dated: March 14, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–06285 Filed 3–18–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL16–47–000]

Pacific Gas and Electric Company; Notice of Petition for Declaratory Order

Take notice that on March 14, 2016, pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2) (2014), Pacific Gas and Electric Company (Petitioner), filed a petition for declaratory order (petition) requesting transmission rate incentives for eight major capacity transmission projects (Projects) that have been approved under the transmission planning process of the California Independent System Operator Corporation and confirmation that the 50 basis adder applicable to its base return on equity for Regional Transmission Organization participation applies to these Projects, all as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on April 11, 2016.

Dated: March 14, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–06286 Filed 3–18–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR16–12–000]

Grand Mesa Pipeline, LLC; Notice of Petition for Declaratory Order

Take notice that on March 11, 2016, pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2) (2015), Grand Mesa Pipeline, LLC (Petitioner), a subsidiary of NGL Energy Partners LP, filed a petition for a declaratory order seeking order approving the proposed rule and regulations tariff (the R&R Tariff) and rate tariff (the Rate Tariff), service priority rights, and prorationing procedures for Grand Mesa's proposed pipeline project (the Grand Mesa Pipeline). The Grand Mesa Pipeline is a 550-mile, 150,000 barrel per day pipeline designed to transport crude oil produced in the Denver-Julesburg Basin to the Cushing, Oklahoma hub, all as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on April 11, 2016.

Dated: March 15, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–06254 Filed 3–18–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14623–001]

Advanced Hydropower, Inc.; Notice of Surrender of Preliminary Permit

Take notice that Advanced Hydropower, Inc., permittee for the proposed Macon County Hydropower Project, filed a letter on March 9, 2016, requesting that its preliminary permit be surrendered. The permit was issued on January 23, 2015, and would have expired on December 31 2017.[1] The project would have been located on the Cullasaja River, in Macon County, North Carolina.

The preliminary permit for Project No. 14623 will remain in effect until the

[1] 150 FERC ¶ 62,064 (2015).

close of business, April 13, 2016. But, if the Commission is closed on this day, then the permit remains in effect until the close of business on the next day in which the Commission is open.[2] New applications for this site may not be submitted until after the permit surrender is effective.

Dated: March 14, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–06287 Filed 3–18–16; 8:45 am]

BILLING CODE 6717–01–P

[2] 18 CFR 385.2007(a)(2) (2015).

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9944–07–OW]

National Rivers and Streams Assessment 2008/2009 Final Report

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of EPA's final report on the National Rivers and Streams Assessment (NRSA) 2008/2009. The NRSA describes the results of the nationwide probabilistic survey that was conducted in the summers of 2008 and 2009 by EPA and its state, tribal, and federal partners. The NRSA 2008/2009 report includes information on how the survey was implemented, what the findings are on a national and ecoregional scale, and future actions and challenges.

FOR FURTHER INFORMATION CONTACT: Richard Mitchell, Office of Wetlands, Oceans and Watersheds, Office of Water, Washington, DC. Phone: 202–566–0644; email: *mitchell.richard@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

The *National Rivers and Streams Assessment 2008–2009: A Collaborative Survey* is the first report to use a statistically-valid random design to assess the condition of the nation's rivers and streams. It is one of a series of National Aquatic Resource Surveys (NARS), a national-scale monitoring program designed to produce statistically-valid assessments that answer critical questions about the condition of waters in the United States. The key goals of the NRSA report are to describe the ecological and recreational condition of the nation's river and stream resources, how those conditions are changing, and the key stressors affecting those waters. Using a statistical survey design, 1,924 sites were selected at random to represent the condition of the larger population of rivers and streams across the lower 48 states, from the largest ''great rivers'' to the smallest headwater streams.

The NRSA finds that 46% of the nation's river and stream miles do not support healthy biological communities when compared to least disturbed sites in similar ecological regions. Fair conditions are found in 25% of river and stream miles, while 28% are in good condition and support healthy aquatic communities. Of the stressors that were examined, phosphorus and nitrogen are the most widespread. Biological communities are at increased risk for poor condition when phosphorus and nitrogen levels are high. The report has undergone public, peer, state/tribal and EPA review.

A. How can I get copies of the NRSA 2008/2009 and other related information?

You may view and download the final report from EPA's Web site at *http://www.epa.gov/national-aquatic-resource-surveys/nrsa.*

Dated: March 11, 2016.

Joel Beauvais,

Deputy Assistant Administrator, Office of Water.

[FR Doc. 2016–06302 Filed 3–18–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2015–0236; FRL–9943–53–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; TSCA Section 8(a) Preliminary Assessment Information Rule (PAIR)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has submitted the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA): ''TSCA Section 8(a) Preliminary Assessment Information Rule (PAIR)'' and identified by EPA ICR No. 0586.13 and OMB Control No. 2070–0054. The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized in this document. EPA did not receive any comments in response to the previously provided public review opportunity issued in the **Federal Register** on June 19, 2015 (80 FR 35349). With this submission, EPA is providing an additional 30 days for public review.

DATES: Comments must be received on or before April 20, 2016.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2015–0236, to both EPA and OMB as follows:

- To EPA online using *http://www.regulations.gov* (our preferred method) or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- To OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Colby Lintner, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

Docket: Supporting documents, including the ICR that explains in detail the information collection activities and the related burden and cost estimates that are summarized in this document, are available in the docket for this ICR. The docket can be viewed online at *http://www.regulations.gov* or in person at the EPA Docket Center, West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is (202) 566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

ICR status: This ICR is currently scheduled to expire on March 31, 2016. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Under PRA, 44 U.S.C. 3501 *et seq.,* 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. The OMB control numbers are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Section 8(a) of the Toxic Substances Control Act (TSCA) authorizes EPA to promulgate rules under which manufacturers, importers and processors of chemical substances and mixtures must maintain records and submit reports to EPA. EPA has promulgated the Preliminary Assessment Information Rule (PAIR) under TSCA section 8(a). EPA uses PAIR to collect information to identify, assess and manage human health and environmental risks from chemical substances, mixtures and categories. PAIR requires chemical manufacturers and importers to complete a standardized reporting form to help evaluate the potential for adverse human health and environmental effects caused by the manufacture or importation of identified chemical substances, mixtures or categories. Chemicals identified by EPA or any other federal agency, for which a justifiable information need for production, use or exposure-related data can be satisfied by the use of the PAIR are proper subjects for TSCA section 8(a) PAIR rulemaking. In most instances the information that EPA receives from a PAIR report is sufficient to satisfy the information need in question. This information collection addresses the reporting and recordkeeping requirements associated with TSCA section 8(a).

Respondents/Affected entities: Entities potentially affected by this ICR are companies that manufacture, process or import chemical substances, mixtures or categories.

Respondent's obligation to respond: Mandatory (see 40 CFR parts 712, 766, and 792).

Estimated total number of potential respondents: 1.

Frequency of response: On occasion.

Estimated total burden: 31.5 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Estimated total costs: $ 2,388 (per year), includes no annualized capital investment or maintenance and operational costs.

Changes in the estimates: There is a decrease of 916 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This decrease reflects EPA's reduced estimate of the assumed number of PAIR reports submitted annually, and also reflects burden changes resulting from mandatory electronic submissions of PAIR reports. This change is both an adjustment and the result of a program change.

Authority: 44 U.S.C. 3501 *et seq.*

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2016–06209 Filed 3–18–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2011–0234; FRL–9943–86–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Petroleum Refineries (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NESHAP for Petroleum Refineries (40 CFR part 63, subpart CC) (Renewal)'' (EPA ICR No. 1692.09, OMB Control No. 2060–0340), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently-approved through March 31, 2016. Public comments were previously requested via the **Federal Register** (80 FR 32116) on June 5, 2015 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before April 20, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2011–0234, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: Owners and operators of petroleum refineries are required to comply with reporting and record-keeping requirements for the general provisions of 40 CFR part 63, subpart A, as well as for the applicable standards found in 40 CFR part 63, subpart CC. This includes submitting initial notification reports, performance tests and periodic reports and results, and maintaining records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with the standards.

Form Numbers: None.

Respondents/affected entities: Existing and new petroleum refining process units and emission points located at refineries that are major sources of hazardous air pollutants (HAP) emissions.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart CC).

Estimated number of respondents: 142 (total).

Frequency of response: Initially, occasionally, annually and semiannually.

Total estimated burden: 528,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $54,800,000 (per year), which includes $143,000 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is a decrease in respondent labor hours and the total O&M costs from the most-recently approved ICR. The decrease in burden is due to adjusting the number of respondents from 148 to 142. The updated number of respondents is based on the Agency's industry analysis conducted for the recent RTR rule amendment, documented in EPA ICR Number 1692.08. This estimate is based on information from EPA's Petroleum Refinery Database (contains data provided by each individual refinery in response to an EPA survey of the petroleum refinery industry in 2011) and the Agency's internal data sources. However, there is a small adjustment increase in the number of responses due to a correction. The previous ICR did not account for semiannual heat exchanger system reports in calculating the number of responses. This ICR renewal includes this item to be consistent with the Table 1 and Table 2 burden calculations.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2016–06211 Filed 3–18–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0503; FRL–9943–97–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Emission Guidelines for Large Municipal Waste Combustors Constructed on or Before September 20, 1994 (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''Emission Guidelines for Large Municipal Waste Combustors Constructed on or Before September 20, 1994 (40 CFR part 60, subpart Cb) (Renewal)'' (EPA ICR No. 1847.07, OMB Control No. 2060–0390), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through March 31, 2016. Public comments were previously requested via the **Federal Register** (80 FR 32116) on June 5, 2015 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before April 20, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0503, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: Owners and operators of affected facilities are required to comply with reporting and record keeping requirements for the general provisions of 40 CFR part 60, subpart A, as well as for the specific requirements at 40 CFR part 60, subpart Cb. This includes submitting initial notifications, performance tests and periodic reports and results, and maintaining records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with the standards.

Form Numbers: None.

Respondents/affected entities: Large municipal waste combustors.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart Cb).

Estimated number of respondents: 81 (total).

Frequency of response: Initially, occasionally, semiannually and annually.

Total estimated burden: 397,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $59,400,000 (per year), which includes $1,560,000 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is a small adjustment increase in the respondent labor hours and costs and the total O&M costs as currently identified in the OMB Inventory of Approved Burdens. The increase in labor hours and cost is due to a change in assumption. In this ICR, we assume all existing sources will take some time each year to re-familiarize themselves with the regulatory requirements. The increase in total O&M cost is due to rounding of all calculated values to three significant figures.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2016–06216 Filed 3–18–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0655; FRL–9943–75–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Ammonium Sulfate Manufacturing Plants (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NSPS for

Ammonium Sulfate Manufacturing Plants (40 CFR part 60, subpart PP) (Renewal)'' (EPA ICR No. 1066.08, OMB Control No. 2060–0032), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through March 31, 2016. Public comments were previously requested via the **Federal Register** (80 FR 32116) on June 5, 2015 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before April 20, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0655, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: Owners and operators of ammonium sulfate manufacturing plants are required to comply with reporting and record keeping requirements for the general provisions of 40 CFR part 60, subpart A, as well as for the applicable standards found in 40 CFR part 60, subpart PP. This includes submitting initial notification reports, performance tests and periodic reports and results, and maintaining records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with the standards.

Form Numbers: None.

Respondents/affected entities: Ammonium sulfate manufacturing facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart PP).

Estimated number of respondents: Two (total).

Frequency of response: Initially, occasionally and semiannually.

Total estimated burden: 286 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $28,700 (per year). There are no includes annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is an increase of two labor hours from the most recently approved ICR due to a change in assumptions. The previous ICR assumed that only new respondents would spend time to read and review the regulatory requirements. This ICR assumes that each respondent will spend one hour annually re-familiarizing themselves with the rule.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2016–06210 Filed 3–18–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2013–0337; FRL–9943–92–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Portland Cement Plants (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NESHAP for Portland Cement Plants (40 CFR part 63, subpart LLL) (Renewal)'' (EPA ICR No. 1801.12, OMB Control No. 2060–0416), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through March 31, 2016. Public comments were previously requested via the **Federal Register** (80 FR 32116) on June 5, 2015 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before April 20, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2013–0337, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the

Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: Owners and operators of affected facilities are required to comply with reporting and record keeping requirements for the general provisions of 40 CFR part 63, subpart A, as well as the applicable standards at 40 CFR part 63, subpart LLL. This includes submitting initial notification reports, performance tests and periodic reports and results, and maintaining records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with the standards.

Form Numbers: None.

Respondents/affected entities: Portland cement plants.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart LLL).

Estimated number of respondents: 87 (total).

Frequency of response: Initially and semiannually.

Total estimated burden: 59,600 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $25,800,000 (per year), which includes $19,800,000 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is an overall decrease in burden as currently identified in the OMB Inventory of Approved Burdens. This decrease is not due to any program changes. The change in the burden and cost estimates occurred because the standard has been in effect for more than three years and the requirements are different during initial compliance (new facilities) as compared to on-going compliance (existing facilities). The previous ICR reflected those burdens and costs associated with the initial activities for subject facilities. This includes purchasing monitoring equipment, conducting performance tests and establishing recordkeeping systems. This ICR, by in large, reflects the on-going burden and costs for existing facilities. Activities for existing source include continuously monitoring of pollutants and the submission of semiannual reports. In addition, we have updated the number of respondents from 100 to 87 using the most recent data available. The overall result is a decrease in the number of responses, labor hours, and costs (including capital and O&M cost).

Courtney Kerwin,

Acting-Director, Collection Strategies Division.

[FR Doc. 2016–06215 Filed 3–18–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2015–0191; FRL–9944–01–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Miscellaneous Organic Chemical Manufacturing (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NESHAP for Miscellaneous Organic Chemical Manufacturing (40 CFR part 63, subpart FFFF) (Renewal)'' (EPA ICR No. 1969.06, OMB Control No. 2060–0533) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through March 31, 2016. Public comments were previously requested via the **Federal Register** (80 FR 32116) on June 5, 2015, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before April 20, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2015–0191, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the Provisions specified at 40 CFR part 63, subpart FFFF. Owners or operators of the affected facilities must submit a one-time-only report of any physical or operational changes, initial performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Form Numbers: None.

Respondents/affected entities: Miscellaneous organic chemical manufacturing facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart FFFF).

Estimated number of respondents: 269 (total).

Frequency of response: Initially and semiannually.

Total estimated burden: 436,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $49,700,000 (per year), includes $5,750,000 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is an increase in burden in this ICR from the most recently approved ICR. This is due

to an increase in the estimated number of respondents subject to the rule. Based on the Agency's projected industry growth rate, we assume the number of sources will continue to grow at a rate of two new sources per year. This results in an increase in the respondent labor hours, number of responses, and total O&M costs.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2016–06220 Filed 3–18–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2016–0078; FRL–9943–50]

Agency Information Collection Activities; Proposed Renewal of an Existing Collection (EPA ICR No. 2415.03); Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). The ICR, entitled: ''Pesticide Environmental Stewardship Program Annual Measures Reporting'' and identified by EPA ICR No. 2415.03 and OMB Control No. 2070–0188, represents the renewal of an existing ICR that is scheduled to expire on November 30, 2016. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be received on or before May 20, 2016.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2016–0078, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

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

FOR FURTHER INFORMATION CONTACT: Scott Drewes, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: 703–347–0107; email address: *drewes.scott@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it 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 estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
3. Enhance the quality, utility, and clarity of the information to be collected.
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What information collection activity or ICR does this action apply to?

Title: Pesticide Environmental Stewardship Program Annual Measures Reporting.

ICR number: EPA ICR No. 2415.03.

OMB control number: OMB Control No. 2070–0188.

ICR status: This ICR is currently scheduled to expire on November 30, 2016. 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. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This ICR enables EPA to run the Pesticide Environmental Stewardship Program (PESP). PESP is an EPA voluntary program implemented by the Office of Pesticide Programs (OPP). Its goal is to promote environmental stewardship to protect human health and the environmental. PESP encourages the use of integrated pest management (IPM) strategies to reduce pests and pesticide risks through partnerships with entities among the pesticide user community. IPM is an approach that involves making the best choices from among a series of pest management practices. It allows for economical pest management, and does so with the least possible hazard to people, property, and the environment. PESP uses the information collected to establish partner membership, develop stewardship strategies, measure progress towards stewardship goals, and award incentives.

While most PESP members are entities that are pesticide end-users, several others are organizations which focus on training, educating, or influencing pesticide users. To become a PESP member, a pesticide user entity or an organization submits an application and a five-year strategy. The strategy outlines how environmental and human health risk reduction goals will be achieved through the implementation of IPM, or through educating others on IPM. In addition, members submit annual progress reports that enable EPA and PESP members to track progress being made in adopting IPM activities and reductions in risks to human health and the environmental. Entities in the PESP program benefit through technical assistance, and through incentives for achievements.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 114 hours per respondent. Burden is defined in 5 CFR 1320.3(b).

The ICR, which is available in the docket along with other related materials, provides a detailed

explanation of the collection activities and the burden estimate that is only briefly summarized here:

Respondents/Affected Entities: Entities potentially affected by this ICR are pesticide user companies and organizations, or entities that practice IPM or promote the use of IPM through education and training. EPA expects that most respondents will come from the following industries: Agriculture, Forestry, Fishing and Hunting (NAICS Code 11), Crop Production (NAICS Code 111), Nursery and Floriculture Production (NAICS Code 11142), Nursery and Tree Production (NAICS Code 111421), Forestry and Logging (NAICS Code 113), Utilities (NAICS Code 22), Electric Power Generation, Transmission and Distribution (NAICS Code 2211), Services to Buildings and Dwellings (NAICS Code 5617), Exterminating and Pest Control Services (NAICS Code 56171), Janitorial Services (NAICS Code 56172), Landscaping Services (NAICS Code 56173), Elementary and Secondary Schools (NAICS Code 6111), Junior Colleges (NAICS Code 6112), Colleges, Universities, and Professional Schools (NAICS Code 6113), Hospitals (NAICS Code 622), Child Day Care Services (NAICS Code 6244), Golf Courses and Country Clubs (NAICS Code 71391), and Environment, Conservation and Wildlife Organizations (NAICS Code 813312).

Estimated total number of potential respondents: 419.

Frequency of response: Annual and on occasion.

Estimated total average number of responses for each respondent: Respondents submit a one-time PESP Membership application, an annual survey, and a PEST strategy every five years.

Estimated total annual burden hours: 47,665 hours.

Estimated total annual costs: $ 3,073,383. This is the estimated burden cost; there are no capital investment or maintenance and operational costs for this information collection.

III. Are there changes in the estimates from the last approval?

There is an increase of 4642 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This increase reflects EPA's updating of burden estimates for this collection based upon historical information on the number of PESP members. Members are classified as IMP Promoters, IPM Users, and National IMP Users. Based on revised estimates, the number of IPM Promoters has decreased, the number of IMP users has increased, and the number of National IPM users has not changed. While the estimated burden per response has not changed for any category, the shift in memberships has resulted in a net increase in the overall burden. This change is an adjustment.

IV. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: March 14, 2016.

Louise P. Wise,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2016–06315 Filed 3–18–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2011–0272; FRL–9944–00–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; State and Federal Emission Guidelines for Hospital/Medical/Infectious Waste Incinerators (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''State and Federal Emission Guidelines for Hospital/Medical/Infectious Waste Incinerators (40 CFR part 60, subpart Ce and 40 CFR part 62, subpart HHH) (Renewal)'' (EPA ICR No. 1899.08, OMB Control No. 2060–0422) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through March 31, 2016. Public comments were previously requested via the **Federal Register** (80 FR 32116) on June 5, 2015 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before April 20, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2011–0272, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: Owners and operators of affected facilities are required to comply with reporting and record keeping requirements for the general provisions of 40 CFR part 60, subpart A and 40 CFR part 62, subpart A as well as the specific requirements at 40 CFR part 60, subpart Ce and 40 CFR part 62, subpart HHH. This includes submitting initial notifications, performance tests and periodic reports and results, and maintaining records of the occurrence

and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with the standards.

Form Numbers: None.

Respondents/affected entities: Hospital, medical, infectious waste incinerators.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart Ce and Part 62, Subpart HHH).

Estimated number of respondents: 58 (total).

Frequency of response: Initially, occasionally, semiannually and annually.

Total estimated burden: 38,800 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $4,370,000 (per year), includes $479,000 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is an overall decrease in the respondent and Agency burden currently identified in the OMB Inventory of Approved Burdens due to a decrease in the respondent universe since the previous ICR. Based on the 2013 Agency analysis, 21 HMIWI units (16 privately owned, 1 federally owned, and 4 state owned) have been shut down over the past several years. The revised estimate results in a decreased in respondent labor hours, number of responses, and capital/O&M costs.

However, there is a slight adjustment increase in respondent hours for States due to a change in assumption. In this ICR, we assume all respondents will take some time to re-familiarize themselves with the regulatory requirements.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2016–06219 Filed 3–18–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2016–0047; FRL–9942–83]

Agency Information Collection Activities; Proposed Collection (EPA ICR No. 2531.01); Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that the Environmental Protection Agency (EPA) is planning to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). The ICR, entitled: ''School Integrated Pest Management Awards Program'' and identified by EPA ICR No. 2531.01 and OMB Control No. 2070—NEW, represents a new request. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be received on or before May 20, 2016.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2016–0047, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

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

FOR FURTHER INFORMATION CONTACT: Lily G. Negash, Field & External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 347–8515; email address: *negash.lily@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it 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 estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What information collection activity or ICR does this action apply to?

Title: School Integrated Pest Management Awards Program.

ICR number: EPA ICR No. 2531.01.

OMB control number: OMB Control No. 2070—NEW.

ICR status: This ICR is for a new information collection activity. 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. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This new ICR covers information collection activities associated with EPA's award program that encourages the use of Integrated Pest Management (IPM) as the preferred approach to pest control in the nation's schools. IPM is a smart, sensible, and sustainable approach to pest control that emphasizes the remediation of pest conducive conditions. IPM combines a variety of pest management practices to provide effective, economical pest control with the least possible hazard to people, property, and the environment. These practices involve exclusion of pests, maintenance of sanitation, and the judicious use of pesticides. The EPA's statutory authorities for this collection of information are set forth in the Pollution Prevention Act of 1990,

the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the Food Quality Protection Act (FQPA) of 1996.

The Agency's IPM implementation efforts are based on a wholesale approach aimed at kindergarten through 12th grade public and Tribal schools. The Agency intends to use the information collected through this ICR to encourage school districts to implement IPM programs and to recognize those that have attained a notable level of success. Because IPM implementation occurs along a continuum, the School IPM (SIPM) incentive program will recognize each milestone step a school district must take to begin, grow, and sustain an IPM program.

This program has five awards categories—*Great Start, Leadership, Excellence, Sustained Excellence,* and *Connector.* The first four categories are stepwise levels that are reflective of the effort, experience, and, ultimately, success that results from implementing EPA-recommended IPM tactics that protect human health and the environment. Schools with pest infestations are not only exposed to potential harm to health and property, but also to stigmatization. The School IPM recognition program will give districts across the nation the opportunity to receive positive reinforcement through public recognition of their efforts in implementing pest prevention and management strategies.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 16.5 hours annually per response. Burden is defined in 5 CFR 1320.3(b).

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

Respondents/Affected Entities: Entities potentially affected by this ICR are school districts, or other entities represent by them.

Estimated total number of potential respondents: Annual average of 53.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: One per application.

Estimated total annual burden hours: 870 hours.

Estimated total annual costs: $72,000. This includes an estimated burden cost of $72,000 and an estimated cost of $0 for capital investment or maintenance and operational costs.

III. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: March 4, 2014.

James Jones,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2016–06314 Filed 3–18–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0874]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before May 20, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0874.

Title: Consumer Complaint Portal: General Complaints, Obscenity or Indecency Complaints, Complaints under the Telephone Consumer Protection Act, Slamming Complaints, RDAs and Communications Accessibility Complaints.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households; Business or other for-profit entities; Not-for-profit institutions; State, local or Tribal Government.

Number of Respondents and Responses: 335,909 respondents; 335,909 responses.

Estimated Time per Response: 15 minutes (.25 hours) to 30 minutes (.50 hours).

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Voluntary. The statutory authority for this collection is contained in 47 U.S.C. 208 of the Communications Act of 1934 (Act), as amended by the Telecommunications Act of 1996.

Total Annual Burden: 83,988 hours.

Total Annual Cost: None.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information, which is covered under the FCC's updated system of records notice (SORN), FCC/CGB–1, ''Informal Complaints, Inquiries and Requests for Dispute Assistance'', which became effective on September 24, 2014.

Privacy Impact Assessment: The Privacy Impact Assessment (PIA) for Informal Complaints and Inquiries was

completed on June 28, 2007. It may be reviewed at *http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.* The Commission is in the process of updating the PIA to incorporate various revisions to it as a result of revisions to the SORN.

Needs and Uses: The Commission consolidated all of the FCC informal consumer complaint intake into an online consumer complaint portal, which allows the Commission to better manage the collection of informal consumer complaints. Informal consumer complaints consist of informal consumer complaints, inquiries and comments. This revised information collection requests OMB approval for the addition of a layer of consumer reported complaint information. Consumers filing a complaint in the online portal are currently asked to choose a product, method and issue detailing their complaint. These revisions will allow consumers to choose from additional issues as well as multiple sub-issues. This change will assist consumers in providing more granular information about their complaint, assist the Commission in the processing of the complaint and provide more detailed data to inform enforcement and policy efforts at the Commission.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer. Office of the Secretary.

[FR Doc. 2016–06304 Filed 3–18–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE AND TIME: Tuesday, March 15, 2016 at 10:00 a.m. and Wednesday, March 16, 2016 at the Conclusion of the Open Meeting.

PLACE 999 E Street NW., Washington, DC.

STATUS: This meeting will be closed to the public.

Federal Register Notice of Previous Announcement—81 FR 12731

THIS ITEM WAS ALSO DISCUSSED: Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shawn Woodhead Werth,

Secretary and Clerk.

[FR Doc. 2016–06435 Filed 3–17–16; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

AGENCY: Federal Election Commission.

DATE AND TIME: Wednesday, March 16, 2016 at 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

Federal Register Notice of Previous Anouncement—81 FR 13367

CHANGE IN THE MEETING: The March 16, 2016 meeting was cancelled.

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shawn Woodhead Werth,

Secretary and Clerk of the Commission.

[FR Doc. 2016–06436 Filed 3–17–16; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: Notice is hereby given of the final approval of a proposed information collection by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503.

Final approval under OMB delegated authority of the extension for three years, with revision, of the following report:

Report title: Survey of Finance Companies.

Agency form number: FR 3033s.

OMB control number: 7100–0277.

Frequency: Every five years.

Reporters: Finance companies and mortgage companies.

Estimated annual reporting hours: 1,800 hours.

Estimated average hours per response: 1.5 hours.

Number of respondents: 1,200.

General description of report: Section 2A of the Federal Reserve Act (''FRA'') requires that the Board and the Federal Open Market Committee maintain long run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates. (12 U.S.C. 225a). Under section 12A of the FRA, the Federal Open Market Committee is required to implement regulations relating to the open market operations conducted by Federal Reserve Banks with a view to accommodating commerce and business and with regard to their bearing upon the general credit situation of the country. (12 U.S.C. 263). Section 14 of the FRA authorizes the Reserve Banks, under rules and regulations prescribed by the Board, to engage in open market operations. (12 U.S.C. 355–59).

Abstract: The Federal Reserve proposes to conduct, with revision, the second stage of a two-stage survey of finance companies that is conducted every five years (the ''quinquennial''). The second stage of the quinquennial is the FR 3033s. The first stage of the quinquennial, the Census of Finance Companies (FR 3033p) was in May 2015 sent to all companies that met the criteria developed to identify the potential universe of domestic finance companies. From the universe of finance companies determined by the FR 3033p, a stratified random sample of

3,000 finance companies has been drawn for the FR 3033s. The survey will be sent on March 21, 2016, and will collect detailed information, as of December 31, 2015, from both assets and liability sides of the respondents' balance sheets, along with income and expenses, the number of accounts and offices, and the small-business credit they extend, if any. The data collected from this voluntary survey will be used for two purposes: to benchmark the consumer and business finance series collected on the monthly Domestic Finance Company Report of Consolidated Assets and Liabilities (FR 2248; OMB No. 7100–0005) and to increase the Board's understanding of an important part of the financial system.

Current Actions: On January 12, 2016, the Federal Reserve published a notice in the **Federal Register** (81 FR 1421) requesting public comment for 60 days on the proposal to extend the FR 3033s for three years and to revise the survey by adding a section to solicit information from the finance companies on income and expenses, number of accounts and offices, and small business credit they extend. The comment period for the notice expired on March 14, 2016. The Federal Reserve did not receive any comments, and the information collection will be revised as proposed.

Board of Governors of the Federal Reserve System, March 16, 2016.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2016–06278 Filed 3–18–16; 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 April 5, 2016.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Jerry G. Scott, as trustee of the Jerry G. Scott Trust, both of Seminole, Oklahoma, and individually as a voting representative, John Barry Barringer, Ardmore, Oklahoma; Lisa B. Boggs, Sulphur, Oklahoma; Hugh B. Warren, Jr., and Allene L. Warren,* both of Ada, Oklahoma, as members, of the Vision Bancshares, Inc. Shareholders' Agreement, Seminole, Oklahoma; to retain voting shares of Vision Bancshares, Inc., and thereby indirectly retain voting shares of Vision Bank, N.A., both in Ada, Oklahoma.

2. *Twila V. Gregg, and Richard A. Gregg,* both of Lee's Summit, Missouri; to acquire voting shares of Urich Bancorp, Inc., and thereby indirectly acquire voting shares of America's Community Bank, both in Blue Springs, Missouri.

Board of Governors of the Federal Reserve System, March 16, 2016.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2016–06256 Filed 3–18–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the notices must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 5, 2016.

A. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Park Financial Group, Inc.*, Minneapolis, Minnesota; to engage *de novo* in extending credit and servicing loans, pursuant to section 225.28(b)(1).

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Washington 1st Banco, Inc.*, Washington, Kansas; to continue to engage *de novo* in extending credit and servicing loans, pursuant to section 225.28(b)(1).

Board of Governors of the Federal Reserve System, March 16, 2016.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2016–06255 Filed 3–18–16; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[Docket No. ATSDR–2016–0004]

Proposed Substances To Be Evaluated for Set 30 Toxicological Profiles

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Request for comments on the proposed substances to be evaluated for Set 30 toxicological profiles.

SUMMARY: ATSDR is initiating the development of its 30th set of toxicological profiles (CERCLA Set 30). This notice announces the list of proposed substances that will be evaluated for CERCLA Set 30 toxicological profile development. ATSDR's Division of Toxicology and Human Health Sciences is soliciting public nominations from the list of proposed substances to be evaluated for toxicological profile development. ATSDR also will consider the nomination of any additional, non-CERCLA substances that may have public health implications, on the basis of ATSDR's authority to prepare toxicological profiles for substances not found at sites on the National Priorities List. The agency will do so in order to ". . . establish and maintain inventory

of literature, research, and studies on the health effects of toxic substances'' under CERCLA Section 104(i)(1)(B), to respond to requests for consultation under section 104(i)(4), and to support the site-specific response actions conducted by ATSDR, as otherwise necessary.

DATES: Nominations from the Substance Priority List and/or additional substances must be submitted within 30 days of the publication of this notice.

ADDRESSES: You may submit nominations, identified by Docket No. ATSDR–2016–0004, by any of the following methods:

**Internet:* Access the Federal eRulemaking portal at *http://www.regulations.gov.* Follow the instructions for submitting comments.

**Mail:* Division of Toxicology and Human Health Sciences, 1600 Clifton Rd. NE., MS F–57, Atlanta, GA 30333

Instructions: All submissions must include the agency name and docket number for this notice. All relevant comments will be posted without change. This means that no confidential business information or other confidential information should be submitted in response to this notice. Refer to the section *Submission of Nominations* (below) for the specific information required.

FOR FURTHER INFORMATION CONTACT: For further information, please contact Commander Jessilynn B. Taylor, Division of Toxicology and Human Health Sciences, 1600 Clifton Rd. NE., MS F–57, Atlanta, GA 30333, Email: *jxt1@cdc.gov;* phone: 770.488.3313.

SUPPLEMENTARY INFORMATION: The Superfund Amendments and Reauthorization Act of 1986 (SARA) [42 U.S.C. 9601 *et seq.*] amended the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA or Superfund) [42 U.S.C. 9601 *et seq.*] by establishing certain requirements for ATSDR and the U.S. Environmental Protection Agency (EPA) with regard to hazardous substances most commonly found at facilities on the CERCLA National Priorities List (NPL). Among these statutory requirements is a mandate for the Administrator of ATSDR to prepare toxicological profiles for each substance included on the Priority List of Hazardous Substances. This list identifies 275 hazardous substances that ATSDR and EPA have determined pose the most significant current potential threat to human health.

Substances To Be Evaluated for Set 30 Toxicological Profiles

Each year, ATSDR develops a list of substances to be considered for toxicological profile development. The Set 30 nomination process includes consideration of all substances on ATSDR's Priority List of Hazardous Substances, also known as the Substance Priority List (SPL), as well as other substances nominated by the public. The 275 substances on the SPL, as well as other substances nominated by the public, will be considered for Set 30 Toxicological Profile development. This list may be found at the following Web site: *www.atsdr.cdc.gov/SPL.*

Submission of Nominations for the Evaluation of Set 30 Proposed Substances: Today's notice invites voluntary public nominations for substances included on the SPL and for substances not listed on the SPL. All nominations should include the full name of the nominator, affiliation, and email address. When nominating a non-SPL substance, please include the rationale for the nomination. Please note that email addresses will not be posted on regulations.gov.

ATSDR will evaluate all data and information associated with nominated substances and will determine the final list of substances to be chosen for toxicological profile development. Substances will be chosen according to ATSDR's specific guidelines for selection. These guidelines can be found in the *Selection Criteria* announced in the **Federal Register** on May 7, 1993 (58FR27286–27287). A hard copy of the Selection Criteria is available upon request or may be accessed at: *http://www.atsdr.cdc.gov/toxprofiles/guidance/criteria_for_selecting_tp_support.pdf.*

Please ensure that your comments are submitted within the specified nomination period. Nominations received after the closing date will be marked as late and may be considered only if time and resources permit.

Dated: March 15, 2016.

Pamela Protzel Berman,

Acting Associate Director, Office of Policy, Planning and Evaluation, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry.

[FR Doc. 2016–06277 Filed 3–18–16; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–16–16TZ; Docket No. CDC–2016–0028]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project entitled ''Formative Research to Develop HIV Social Marketing Campaigns for Healthcare Providers.'' CDC seeks a three-year approval to collect data from health care providers in order to develop timely, relevant, clear, and engaging materials that will support patient-provider communications related to HIV prevention.

DATES: Written comments must be received on or before May 20, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2016–0028 by any of the following methods:

- *Federal eRulemaking Portal: Regulation.gov.* Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to Regulations.gov, including any personal information provided. For access to the docket to read background documents or comments received, go to Regulations.gov.

Please note: All public comment should be submitted through the Federal eRulemaking portal (Regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of

the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

Formative Research to Develop HIV Social Marketing Campaigns for Healthcare Providers—New—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

According to recent estimates, approximately 1.2 million people are living with human immunodeficiency virus (HIV) in the United States, and for the past several years, approximately 50,000 people have been diagnosed annually. It is well-established that certain populations are disproportionately affected by HIV, including men who have sex with men (MSM), African Americans, Hispanics/Latinos, and transgender communities.

In part, to address these health disparities, CDC first published guidelines for HIV testing in health care settings in 2003. CDC updated this guidance to reflect changes in the evidence base in 2006. As the prevention landscape has evolved, so too has CDC's guidance for health care providers. Most recently, CDC published guidelines for health care providers on pre-exposure prophylaxis (PrEP) and recommendations for HIV prevention with adults and adolescents with HIV. Despite clear and compelling guidance from CDC, past studies have shown that patient-provider communication about HIV testing and prevention is uncommon and conversations that do take place tend to be brief.

CDC has developed four social marketing campaigns to support patient-provider communication about HIV. These campaigns have made great strides in addressing health care providers' information needs, thereby building their capacity to discuss HIV prevention with their patients. At this juncture, particularly with the evolving HIV prevention landscape, more data are needed to deepen our understanding of providers' interpretation and understanding of existing and emergent HIV prevention science; how providers use guidance or evidence-based approaches in their practices generally as well with populations that have been largely overlooked (*e.g.,* transgender individuals); and how to develop new or enrich existing provider materials to make them more informative, appealing, and usable.

The three-year study proposes a series of in-depth interviews with 600 healthcare providers (*i.e.,* physicians, physician assistants, and nurses) identified by contractor staff and professional recruiting firms. Data will be collected through one-time, hour-long, individual, in-depth interviews accompanied by a computer-assisted personal interview (total of 1 hour and 15 minutes per person). We anticipate screening 1,200 individuals to obtain 600 individuals who will participate in a 1-hour, in-depth interview and complete a 15-minute computer-assisted personal interview (web-based) survey. All data collections will be conducted only one time. Respondents who will participate in these interviews will be selected purposively to inform the development of appropriate messaging and materials for healthcare providers. Topic areas addressed within the interviews may include HIV prevention, HIV treatment, and linkage and referral to services. Data will be securely stored on password-protected computers and in locked file cabinets.

The information gathered through this data collection will allow CDC to develop timely, relevant, clear, and engaging materials that continue to support patient-provider communications related to HIV prevention. Participation of respondents is voluntary, and there is no cost to respondents other than their time. The total estimated annualized burden hours are 950.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Health care providers	Screener	1,200	1	10/60	200
	Web-based survey	600	1	15/60	150
	Exploratory guide—Prevention with positives and retention in care.	50	1	1	50
	Exploratory guide—Transgender health	50	1	1	50

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
	Exploratory guide—HIV prevention	50	1	1	50
	Message testing guide	150	1	1	150
	Concept testing guide	150	1	1	150
	Materials testing guide	150	1	1	150
Total					950

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–06248 Filed 3–18–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Health Resources and Services Administration (HRSA) has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than April 20, 2016.

ADDRESSES: Submit your comments, including the Information Collection Request Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Maternal and Child Health Bureau Performance Measures for Discretionary Grants.

OMB No. 0915–0298—Revision.

Abstract: The Maternal and Child Health Bureau's (MCHB) Discretionary Grant Information System (DGIS) electronically captures performance measure, program, financial, and abstract data, and products and publications about these discretionary grants from the grantees. The data collected are used by MCHB project officers to monitor and assess grantee performance as well as assist in monitoring and evaluating MCHB's programs.

Need and Proposed Use of the Information: The Health Resources and Services Administration (HRSA) proposes to continue using reporting requirements for grant programs administered by MCHB, including national performance measures as previously approved by OMB, and in accordance with the ''Government Performance and Results Act (GPRA) of 1993'' (Public Law 103–62). This Act requires the establishment of measurable goals for federal programs that can be reported as part of the budgetary process, thus linking funding decisions with performance. Performance measures for MCHB discretionary grants were initially approved in January 2003. Approval from OMB is being sought to continue the use of performance measures for these grants. The revised performance measures are categorized by population domains (Adolescent Health, Child Health, Children with Special Health Care Needs, Lifecourse/Crosscutting, Maternal/Women Health, and Perinatal/Infant Health) consistent with Title V, with the addition of a Capacity Building domain, specific to DGIS. There are also program-specific measures included for a subset of discretionary grant programs including the Healthy Start program, Emergency Medical Services for Children program, and programs within the Division of MCH Workforce Development. Grant programs will be assigned measures in the domains that are appropriate for their activities. Comments were received related to structure, content, and volume of performance measures during the 60-day public comment period and those comments were taken into consideration in the final revision of the DGIS performance measures and overall DGIS data collection.

MCHB's purpose in revising the performance measures is to better measure progress toward program goals. These program goals include alignment with and support of the Title V Block Grant, specifically population domains and National Performance Measures, where reasonable. Further, the revised measures will more accurately capture the scope of services provided through this grant funding. The overall number of performance measures has been reduced from prior DGIS data collection, and the average number of performance measures each grantee will be required to report is reduced as well. Further, the structure of the data collection has been revised to better measure the various models of programs and the services each funded program provides. This revision will allow a more accurate and detailed picture of the full scope of services provided grant programs administered by MCHB. The data collected are also used by MCHB project officers to monitor and assess grantee performance as well as assist in monitoring and evaluating MCHB's programs.

Likely Respondents: Discretionary grant programs administered by the Maternal and Child Health Bureau.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review

the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Grant Report	600	1	600	36	21,600
Total	600	1	600	36	21,600

Jackie Painter,

Director, Division of the Executive Secretariat.

[FR Doc. 2016–06318 Filed 3–18–16; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 14–066: Limited Competition: Specific pathogen free macaque colonies.

Date: March 22, 2016.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Robert Freund, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892, 301–435–1050, *freundr@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; AIDS and Related Research: A-Start and Others.

Date: March 30–31, 2016.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Robert Freund, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892, 301–435–1050, *freundr@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Big Data to Address HIV/AIDS.

Date: March 30, 2016.

Time: 10:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jose H. Guerrier, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1137, *guerriej@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: HIV/AIDS Innovative Research Applications.

Date: March 31, 2016.

Time: 12:00 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: Mark P. Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1775, *rubertm@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Social and Behavioral Influences on HIV Prevention and Treatment.

Date: April 1, 2016.

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, (Virtual Meeting).

Contact Person: Shalanda A. Bynum, MPH, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, Bethesda, MD 20892, 301–755–4355, *bynumsa@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, 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: March 15, 2016.

Sylvia L. Neal,

Program Analyst, Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–06196 Filed 3–18–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in section 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 Child Health and Human Development Special Emphasis Panel.

Date: April 8, 2016.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Sherry L Dupere, Ph.D., Chief, Scientific Review Branch, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892–7510, 301–451–3415, *duperes@mail.nih.gov*.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: April 11, 2016.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Priscah Mujuru, MPH, DRPH, RN, BSN, COHNS, Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Suite 5B01, Bethesda, MD 20892–7510, 301–435–6908, *mujurup@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: March 15, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–06198 Filed 3–18–16; 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 (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Accelerating Improvements in the HIV Care Continuum.

Date: April 8, 2016.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Mark P. Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1775, *rubertm@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Computational Genomics.

Date: April 12, 2016.

Time: 2:30 p.m. to 3:30 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: Baishali Maskeri, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–2864, *maskerib@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: HIV Biology and Therapeutics.

Date: April 19, 2016.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Barna Dey, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, Bethesda, MD 20892, 301–451–2796, *bdey@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: March 15, 2016.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–06197 Filed 3–18–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2016–0074]

Recreational Boating Safety—Strategic Plan of the National Recreational Boating Safety Program 2017–2021

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability and request for comments.

SUMMARY: The Coast Guard requests public comments on its draft strategic plan of the National Recreational Boating Safety Program for 2017–2021. This plan is under development to coordinate efforts of stakeholders to prevent future deaths and injuries of recreational boaters.

DATES: Comments must be submitted to the online docket via *http://www.regulations.gov,* or reach the Docket Management Facility, on or before April 20, 2016.

ADDRESSES: You may submit comments identified by docket number USCG–2016–0074 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: For information about this document, email *StrategicPlan2017-2021@uscg.mil*

SUPPLEMENTARY INFORMATION:

Public Participation and Comments

We encourage you to submit comments and related data on this notice. Please include its docket number and explain each suggestion or recommendation you make. Although we do not plan to issue a new notice responding to the comments and data we receive, we may revise the draft plan based on that input.

Please submit your comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the address in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Both the draft plan and the final plan, along with any comments or data we receive from the public, will be available at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified

when comments are posted or a final rule is published.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Discussion

Chapter 131 of Title 46, U.S. Code, requires the Secretary of Homeland Security to carry out a national recreational boating safety program and the Secretary has delegated that authority to the Coast Guard.[1] Each year, approximately 650 citizens die and thousands are injured in reportable recreational boating safety accidents. To coordinate efforts to prevent future deaths and injuries of recreational boaters, the Coast Guard is working with stakeholders of the recreational boating community to develop a strategic plan. This plan contains specific initiatives to increase life jacket wear rates, decrease boating under the influence, and increase boating knowledge and skills and other prevention efforts. The Coast Guard seeks public comment on this draft plan, specifically for policy actions and supporting data that may help prevent future deaths and injuries.

This notice is issued under authority of 5 U.S.C. 552(a).

Dated: March 8, 2016.

Verne B. Gifford,

Captain, Coast Guard, Director of Inspections and Compliance.

[FR Doc. 2016–06303 Filed 3–18–16; 8:45 am]

BILLING CODE 9110–04–P

[1] DHS Delegation No. 0170.1(II)(92.i).

DEPARTMENT OF HOMELAND SECURITY

United States Immigration and Customs Enforcement

Agency Information Collection Activities: Comment Request; Extension of an Information Collection

ACTION: 30-Day Notice of Information Collection for review; Form No. I–395; Affidavit in Lieu of Lost Receipt of United States ICE for Collateral Accepted as Security; OMB Control No. 1653–0045.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (USICE), is submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. This information collection was previously published in the **Federal Register** on January 15, 2016, Vol. 81 No. 2227 allowing for a 60-day comment period. No comments were received on this information collection. The purpose of this notice is to allow an additional 30 days for public comments.

Written comments and suggestions regarding items contained in this notice and especially with regard to the estimated public burden and associated response time should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for U.S. Immigration and Customs Enforcement, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Affidavit in Lieu of Lost Receipt of United States ICE for Collateral Accepted as Security.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* I–395; U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local, or Tribal Government. Section 404(b) of the Immigration and nationality Ace (8 U.S.C. 1101 note) provides for the reimbursement of State and localities for assistance provided in meeting an immigration emergency. This collection of information allows for State or local governments to request reimbursement.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 12,500 responses at 30 minutes (.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 6,250 annual burden hours.

Dated: March 16, 2016.

Scott Elmore,

Program Manager, Forms Management Office, Office of the Chief Information Officer, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. 2016–06290 Filed 3–18–16; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2016–N023; FXES11120100000–167–FF01E00000]

Oregon Department of Forestry; Proposed Safe Harbor Agreement for the Northern Spotted Owl and Draft Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from the Oregon Department of Forestry for an Endangered Species Act (ESA) Enhancement of Survival Permit (Permit) for take of the federally threatened northern spotted owl. The Permit application includes a draft Safe Harbor Agreement (SHA) addressing Service access to Oregon Department of Forestry lands for the survey and removal of barred owls as part of the Service's Barred Owl Removal Experiment (Experiment) in Lane County, Oregon. In response to the permit application, the Service has prepared a draft Environmental

Assessment (EA) addressing the permit action. We are making the Permit application, including the draft SHA and the draft EA, available for public review and comment.

DATES: To ensure consideration, written comments must be received from interested parties by April 20, 2016.

ADDRESSES: To request further information or submit written comments, please use one of the following methods, and note that your information request or comments are in reference to the Oregon Department of Forestry draft SHA and draft EA.

- *Internet:* Documents may be viewed and downloaded on the Internet at *http://www.fws.gov/ofwo/.*
- *Email: barredowlsha@fws.gov.* Include ''Oregon Department of Forestry SHA'' in the subject line of the message.
- *U.S. Mail:* Betsy Glenn; U.S. Fish and Wildlife Service; Oregon Fish and Wildlife Office; 2600 SE. 98th Ave., Suite 100; Portland, OR 97266.
- *Fax:* 503–231–6195.
- *In-Person Drop-off, Viewing, or Pickup:* Call 503–231–6970 to make an appointment (necessary for viewing or pickup only) during regular business hours at the U.S. Fish and Wildlife Service; Oregon Fish and Wildlife Office; 2600 SE. 98th Ave., Suite 100; Portland, OR 97266. Written comments can be dropped off during regular business hours at the above address on or before the closing date of the public comment period (see **DATES**).

FOR FURTHER INFORMATION CONTACT: Betsy Glenn, U.S. Fish and Wildlife Service (see **ADDRESSES**), telephone 503–231–6970. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION: The Oregon Department of Forestry has applied to the Service for a Permit under section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et seq.*). The Permit application includes a draft SHA. The Service has drafted an EA addressing the effects of the proposed Permit action on the human environment.

The SHA covers approximately 20,000 acres of forest lands administered by the Oregon Department of Forestry where timber management activities will occur within the treatment portion of the Oregon Coast Ranges Study Area of the Experiment in Lane County, Oregon. The SHA addresses timber management activities only in the treatment portion of the study area on Oregon Department of Forestry lands. Impacts to spotted owl associated with the Experiment in non-treatment portions of the Study Area are addressed in the environmental review for the Experiment (USFWS 2015). The proposed term of the permit and the SHA is 13 years. In return for permission to access their lands for barred owl surveys and removal in support of the Experiment, the Permit would authorize take of the threatened northern spotted owl (*Strix occidentalis caurina*) during the term of the Permit caused by forest management activities at sites managed by the Department that may be re-occupied by spotted owls as a result of barred owl removal.

Background

Under a SHA, participating landowners undertake activities on their property to benefit species listed under the ESA. SHAs and their associated permits are intended to encourage private and other non-Federal property owners to implement conservation actions for federally listed species by assuring the landowners that they will not be subjected to increased property use restrictions as a result of their conservation efforts. SHAs must provide a net conservation benefit for the covered species.

The assurances provided under a SHA and its associated permit allow the property owner to alter or modify the enrolled property to agreed-upon baseline conditions, even if such alteration or modification results in the incidental take of a listed species. The baseline conditions represent the existing levels of use of the property by the species covered in the SHA. The SHA assurances are contingent on the property owner complying with obligations in the SHA and the terms and conditions of the Permit. The SHA's net conservation benefits must be sufficient to contribute, either directly or indirectly, to the recovery of the covered listed species.

Permit application requirements and issuance criteria for SHAs are found in the Code of Federal Regulations (CFR) at 50 CFR 17.22(c). The Service's Safe Harbor Policy (64 FR 32717, June 17, 1999) and the Safe Harbor Regulations (68 FR 53320, September 10, 2003; and 69 FR 24084, May 3, 2004) are available at *http://www.fws.gov/endangered/laws-policies/regulations-and-policies.html.*

Oregon Department of Forestry Safe Harbor Agreement

The proposed Oregon Department of Forestry SHA addresses Service access to lands administered by the Department in support of implementing the Experiment (USFWS 2013a) in the Oregon Coast Ranges Study Area in Lane County, Oregon.

The SHA covers about 20,000 acres of Oregon Department of Forestry lands where timber management activities will occur within the treatment portion of the Oregon Coast Ranges Study Area. The treatment area covers lands owned by many different landowners. The treatment area includes 57 percent Federal lands, 12 percent State lands, and 31 percent private lands. If barred owl removal leads to the re-occupancy of currently unoccupied sites by spotted owls on non-Federal lands administered by the Department that are subject to forest management activities, in the absence of the proposed SHA and Permit, some restrictions or limitations on forest management activities on these lands could occur.

Activities covered under the SHA in the treatment portion of the Study Area are routine forest management activities: Timber harvest, road maintenance and construction activities, and rock pit development.

The mission of the Oregon Department of Forestry is to serve the people of Oregon by protecting, managing, and promoting stewardship of Oregon's forests to enhance environmental, economic, and community sustainability. In alignment with this mission, management of State Forest lands is specifically aimed to provide the ''Greatest Permanent Value'' to the citizens of the State of Oregon as provided for in Chapter 530 of the Oregon Revised Statues and further defined in Oregon Administrative Rule 629–035–0020. The definition of Greatest Permanent Value includes the protection, maintenance, and enhancement of habitat for native wildlife. The Oregon Department of Forestry is anticipating significant changes and fluctuations in spotted owl occupancy status of well surveyed sites and areas on or near their lands in the treatment area after barred owl removal occurs and potential short-term regulatory impacts to operation plans after barred owl removal in the treatment area occurs.

The purpose of ODF participation in the SHA is to cooperate with USFWS regarding this recovery action while maintaining a reasonable level of certainty regarding regulatory requirements impacting forest operations and management during and after the experiment period. To support the Experiment, under the SHA, the Oregon Department of Forestry will provide the researchers access to Oregon Department of Forestry lands to survey for and to remove barred owls located on Oregon Department of Forestry lands within the treatment portion of the Study Area. In addition, Oregon

Department of Forestry will maintain habitat to support actively nesting spotted owls on any reoccupied sites on covered lands during the nesting season.

The Service's Proposed Action

The Service proposes to enter into the SHA and to issue a Permit to the Oregon Department of Forestry for take of the northern spotted owl caused by covered activities, if Permit issuance criteria are met. The Permit would have a total term of 13 years. The permit would start on the date of issuance and would be in effect through August 31, 2025, except that for covered activities related to the harvest of timber sales in non-baseline areas that are auctioned, sold and with a contract signed by the Oregon Department of Forestry prior to August 31, 2025, permit coverage would extend to August 31, 2028. Harvest of potentially suitable spotted owl habitat (nesting, roosting, foraging habitat) on the non-baseline areas will not exceed 3,500 acres during the term of the Permit.

Monitoring of spotted owls on Oregon Department of Forestry lands as part of the ongoing spotted owl surveys conducted under the Northwest Forest Plan Monitoring program has yielded a good dataset that may be included in the SHA to establish a baseline for the estimated current occupancy status of each spotted owl site within the covered area. Any spotted owl sites with a response from at least one resident spotted owl between 2011 and present are considered in the baseline of the SHA. Based on this approach, there are 20 baseline (*i.e.,* currently occupied) and 18 non-baseline (*i.e.,* currently unoccupied) spotted owl sites in the treatment portion of the Oregon Coast Ranges Study Area where the Oregon Department of Forestry manages land.

The conservation benefits for the northern spotted owl under the SHA arise from the Oregon Department of Forestry's contribution to our assessment under the Experiment of the efficacy of barred owl removal to recovery of the spotted owl. That contribution would be provided under the SHA by their allowing Service access to their roads and lands for barred owl surveys and, within the treatment area, barred owl removal. In the Study Area landscape of multiple landowners, access to interspersed non-Federal road and lands for barred owl surveys and, within the treatment area, barred owl removal is important to the efficient and effective completion of the Experiment.

The impact of the increase in non-native barred owl populations as they expand in the range of the spotted owls has been identified as one of the primary threats to the continued existence of the spotted owl. The Recovery Plan for the Northern Spotted Owl includes Recovery Action 29—''Design and implement large-scale control experiments to assess the effects of barred owl removal on spotted owl site occupancy, reproduction, and survival'' (USFWS 2011, p. III–65). The Service developed the Barred Owl Removal Experiment to implement this Recovery Action, completing the EIS and ROD in 2013 (USFWS 2013a and b). The Service selected a study conducted on four study areas, including the Oregon Coast Ranges Study Area. Timely results from this experiment are crucial for informing development of a long-term barred owl management strategy that is essential to the conservation of the northern spotted owl.

While the Experiment can be conducted without access to non-Federal lands, failure to remove barred owls from portions of the treatment area could reduce the efficiency and weaken the results of the Experiment regarding any changes in spotted owl population dynamics resulting from the removal of barred owls and potentially warrant extending the duration of the Experiment to offset these implications. The Service has repeatedly indicated the need to gather this information in a timely manner.

Take of spotted owls under this SHA would likely be in the form of harm from forest operation activities that result in habitat degradation, or harassment from forest management activities that cause disturbance to spotted owls. Incidental take in the form of harassment by disturbance is most likely to occur near previously occupied spotted owl nest sites if they become reoccupied. Harm and harassment could occur during timber operations and management that will continue during the Permit term. Covered activities are routine timber harvest and road maintenance and construction activities, including rock pit development that may disturb spotted owls.

Net Conservation Benefits to the Northern Spotted Owl

As discussed above, Service access to Oregon Department of Forestry lands provided for under the SHA is important to the efficient and effective completion of the Experiment within a reasonable timeframe. Under the SHA, all of the currently occupied spotted owl sites on these lands are within the baseline for the SHA and no take of these sites is authorized under the proposed Permit. Under the Permit, if barred owl removal does allow spotted owls to reoccupy sites that are not currently occupied (non-baseline), the Oregon Department of Forestry will be allowed to incidentally take these spotted owls during the term of the Permit. It is highly unlikely that these sites would ever be reoccupied by spotted owls without the removal of barred owls.

The removal of barred owls on the Oregon Coast Ranges Study Area will end within 10 years. The Service anticipates that, once released from the removal pressure, barred owl populations will rebound to pre-treatment levels within 3 to 5 years. This is likely to result in the loss of the newly reoccupied sites. Therefore, any occupancy of these sites is likely to be temporary and short-term.

The proposed SHA and Permit allow for the incidental take of spotted owls at 18 non-baseline (*i.e.,* currently unoccupied) sites in the treatment portion of the Oregon Coast Ranges Study Area if these sites become reoccupied during the barred owl removal study. Incidental take spotted owls on non-baseline owl sites that may be reoccupied can result from disturbance (*e.g.,* noise) from forest management activities or habitat loss. Disturbance with no habitat loss is a temporary effect and is not anticipated to disrupt the spotted owl sites to a level that would affect the results of the experiment. Ten of the 48 historic spotted owl site centers in the treatment area occur on Oregon Department of Forestry lands, and three additional sites are close enough that forest management activities on Oregon Department of Forestry lands could result in some disturbance of the sites if these site centers were reoccupied. Take resulting from disturbance is temporary, short-term, and only likely to occur if activities occur very close to nesting spotted owls. The Oregon Department of Forestry is a minor owner on 6 of the 18 sites, with less than 10 percent of the land ownership and less than 10 percent of the remaining spotted owl nesting/roosting habitat. Federal lands contain the majority of the remaining spotted owl nesting/roosting habitat at these six sites. Thus, assuming these six non-baseline spotted owl sites are re-occupied by spotted owls, and Oregon Department of Forestry removed all habitat remaining on their lands within these sites under their Permit, these sites are likely to remain viable as a result of habitat remaining on other ownerships, including the Federal agencies. On the remaining 12 sites, Oregon Department of Forestry manages 15 to 79 percent of the land and 17 to

84 percent of remaining spotted owl nesting/roosting habitat. Habitat removal within these nesting and roosting sites could result in loss of habitat suitability leading to take of spotted owls. To avoid or minimize the take resulting from disturbance and habitat loss associated with timber management activities on their lands, the Oregon Department of Forestry will maintain at least a 70-acre habitat core for nesting spotted owls that may reoccupy non-baseline sites during the nesting and rearing season (March 1 to September 30 of the year). This allows the owl pairs to produce young and contribute to the future spotted owl population.

The primary conservation value of the Experiment is the information it provides on the efficacy of removal as a tool to manage barred owl populations for the conservation of the spotted owl at the range-wide scale. In the landscape of multiple landowners that exist within the Oregon Coast Ranges Study Area, access to interspersed non-Federal lands is important to the efficient and effective completion of the Experiment within a reasonable time frame under the Oregon Department of Forestry SHA; thus, researchers will need access to roads and lands for barred owl surveys and removal. Thus, the take of spotted owls on the temporarily reoccupied sites is potentially greatly offset by the value of the information gained from the experiment and its potential contribution to the range-wide recovery of the spotted owl by the timely development of a long-term barred owl management strategy. For this reason, the Service believes this SHA would advance the recovery of the spotted owl.

National Environmental Policy Act Compliance

The Service's entering into the proposed SHA and issuance of a Permit is a Federal action that triggers the need for compliance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) (NEPA). We have prepared a draft EA to analyze the impacts of this proposed action on the human environment in comparison to the no-action alternative.

Public Comments

You may submit your comments and materials by one of the methods listed in the **ADDRESSES** section. We request data, new information, or suggestions from the public, other concerned governmental agencies, Tribes, the scientific community, industry, or any other interested party on our proposed Federal action. In particular, we request information and comments regarding the following issues:

1. The direct, indirect, and cumulative effects that implementation of the SHA could have on endangered and threatened species;
2. Other reasonable alternatives consistent with the purpose of the proposed SHA as described above, and their associated effects;
3. Measures that would minimize and mitigate potentially adverse effects of the proposed action;
4. Identification of any impacts on the human environment that should have been analyzed in the draft EA pursuant to NEPA;
5. Other plans or projects that might be relevant to this action;
6. The proposed term of the Permit and whether the proposed SHA would provide a net conservation benefit to the spotted owl; and
7. Any other information pertinent to evaluating the effects of the proposed action on the human environment.

Public Availability of Comments

All comments and materials we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personally identifiable information in your comments, you should be aware that your entire comment—including your personally identifiable information—may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety. Comments and materials we receive, as well as supporting documentation we used in preparing the draft EA, will be available for public inspection by appointment, during normal business hours, at our Oregon Fish and Wildlife Office (see **ADDRESSES**).

Next Steps

We will evaluate the draft SHA, associated documents, and any public comments we receive to determine whether the Permit application and the EA meet the requirements of section 10(a) of the ESA, NEPA, and their respective implementing regulations. We will also evaluate whether issuance of a Permit would comply with section 7(a)(2) of the ESA by conducting an intra-Service section 7 consultation on the proposed Permit action. If we determine that all requirements are met, we will sign the proposed SHA and issue a Permit under section 10(a)(1)(A) of the ESA to the Oregon Department of Forestry, for take of the northern spotted owl caused by covered activities in accordance with the terms of the Permit and the SHA. We will not make our final decision until after the end of the 30-day public comment period, and we will fully consider all comments and information we receive during the public comment period.

Authority

We provide this notice pursuant to section 10(c) of the ESA, its implementing regulations (50 CFR 17.22), and NEPA and its implementing regulations (40 CFR 1506.6).

Theresa Rabot,

Deputy Regional Director, Pacific Region, U.S. Fish and Wildlife Service, Portland, Oregon.

[FR Doc. 2016–06276 Filed 3–18–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2016–N028; FXES11130400000EA–123–FF04EF1000]

Endangered and Threatened Wildlife and Plants; Availability of Proposed Low-Effect Habitat Conservation Plan, Lake County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments/information.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (Act). Hartwood Residential, LLC, is requesting a 2-year ITP. We request public comment on the permit application and accompanying proposed habitat conservation plan (HCP), as well as on our preliminary determination that the plan qualifies as low effect under the National Environmental Policy Act (NEPA). To make this determination, we used our environmental action statement and low-effect screening form, which are also available for review.

DATES: To ensure consideration, please send your written comments by April 20, 2016.

ADDRESSES: If you wish to review the application and HCP, you may request documents by email, U.S. mail, or

phone (see below). These documents are also available for public inspection by appointment during normal business hours at the office below. Send your comments or requests by any one of the following methods.

Email: northflorida@fws.gov. Use ''Attn: Permit number TE80020B–0'' as your message subject line for Hartwood Residential, LLC.

Fax: Field Supervisor, (904) 731–3191, Attn: Permit number TE80020B–0.

U.S. mail: Field Supervisor, Jacksonville Ecological Services Field Office, Attn: Permit number TE80020B–0, U.S. Fish and Wildlife Service, 7915 Baymeadows Way, Suite 200, Jacksonville, FL 32256.

In-person drop-off: You may drop off information during regular business hours at the above office address.

FOR FURTHER INFORMATION CONTACT: Zakia Williams, telephone: (904) 731–3326; email: *zakia_williams@fws.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 9 of the Act (16 U.S.C. 1531 *et seq.*) and our implementing Federal regulations in the Code of Federal Regulations (CFR) at 50 CFR 17 prohibit the ''take'' of fish or wildlife species listed as endangered or threatened. Take of listed fish or wildlife is defined under the Act as ''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct'' (16 U.S.C. 1532). However, under limited circumstances, we issue permits to authorize incidental take—*i.e.,* take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

Regulations governing incidental take permits for threatened and endangered species are at 50 CFR 17.32 and 17.22, respectively. The Act's take prohibitions do not apply to federally listed plants on private lands unless such take would violate State law. In addition to meeting other criteria, an incidental take permit's proposed actions must not jeopardize the existence of federally listed fish, wildlife, or plants.

Applicant Proposal

Hartwood Residential, LLC

Hartwood Residential, LLC, is requesting take of approximately 2.8 acres of occupied sand skink foraging and sheltering habitat incidental to construction of a residential development, and they seek a 2-year permit. The 115.8-acre project is located on parcel number 09–23–26–0004–000–02400 within Section 9 and 16, Township 23 South, and Range 26 East, Lake County, Florida. The project includes construction of a residential development. The applicant proposes to mitigate for the take of the sand skink by the purchase of 5.6 mitigation credits from the Morgan Lake Wales Preserve Conservation Bank.

Our Preliminary Determination

We have determined that the applicant's proposal, including the proposed mitigation and minimization measures, would have minor or negligible effects on the species covered in their HCP. Therefore, our proposed issuance of the requested ITP qualifies as a categorical exclusion under the National Environmental Policy Act, as provided by Department of the Interior implementing regulations in part 46 of title 43 of the Code of Federal Regulations (43 CFR 46.205, 46.210, and 46.215). A low-effect HCP is one involving (1) Minor or negligible effects on federally listed or candidate species and their habitats, and (2) minor or negligible effects on other environmental values or resources.

Next Steps

We will evaluate the HCP and comments we receive to determine whether the ITP application meets the requirements of section 10(a) of the Act (16 U.S.C. 1531 *et seq.*). If we determine that the application meets these requirements, we will issue ITP number TE80020B–0. We will also evaluate whether issuance of the section 10(a)(1)(B) ITP complies with section 7 of the Act by conducting an intra-Service section 7 consultation. We will use the results of this consultation, in combination with the above findings, in our final analysis to determine whether or not to issue the ITP. If the requirements are met, we will issue the permit to the applicant.

Public Comments

If you wish to comment on the permit application, HCP, and associated documents, you may submit comments by any one of the methods in **ADDRESSES**.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under Section 10 of the Act and NEPA regulations (40 CFR 1506.6).

Dated: March 8, 2016.

Jay B. Herrington,

Field Supervisor, Jacksonville Field Office, Southeast Region.

[FR Doc. 2016–06205 Filed 3–18–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[DT21200000 DST000000.T7AC00.241A]

Proposed Renewal of Information Collection: OMB Control Number 1035–0004, Trust Funds for Tribes and Individual Indians, 25 CFR Part 115

AGENCY: Office of the Secretary, Office of the Special Trustee for American Indians.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Special Trustee for American Indians, Office of the Secretary, Department of the Interior, announces the proposed extension of a public information collection and seeks public comments on the provisions thereof, regarding, ''Trust Funds for Tribes and Individual Indians, 25 CFR 115,'' OMB Control No. 1035–0004.

DATES: Consideration will be given to all comments received by *May 20, 2016.*

ADDRESSES: Send your written comments to Dianne M. Moran, Field Operations, Office of the Special Trustee for American Indians, 4400 Masthead St. NE., Albuquerque, New Mexico 87109. You may also email your comments to: *Dianne_Moran@ost.doi.gov*. Individuals providing comments should reference OMB control number 1035–0004, ''Trust Funds for Tribes and Individual Indians, 25 CFR 115.''

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, any explanatory information and related forms, see the contact information provided in the **ADDRESSES** section above.

SUPPLEMENTARY INFORMATION:

I. Abstract

This notice is for renewal of information collection.

The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement the Paperwork

Reduction Act of 1995, 44 U.S.C. 3501 *et seq.,* require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8 (d)). This notice identifies an information collection activity that the Office of the Special Trustee for American Indians will submit to OMB for renewal.

The American Indian Trust Fund Management Reform Act of 1994 (the Reform Act) (Pub. L. 103–412) makes provisions for the Office of the Special Trustee for American Indians to administer trust fund accounts for individuals and tribes. The collection of information is required to facilitate the processing of deposits, investments, and distribution of monies held in trust by the U.S. Government and administered by the Office of the Special Trustee for American Indians. The collection of information provides the information needed to establish procedures to: Deposit and retrieve funds from accounts, perform transactions such as cashing checks, reporting lost or stolen checks, stopping payment of checks, and general verification for account activities.

II. Data

(1) *Title:* Trust Funds for Tribes and Individuals Indians, 25 CFR 115.

OMB Control Number: 1035–0004.

Current Expiration Date: July 31, 2016.

Type of Review: Information Collection Renewal.

Affected Entities: Individual Indians and Tribes who wish to initiate some activity on their trust accounts.

Obligation to respond: Required to obtain or retain a benefit.

Estimated annual number of respondents: 85,562.

Frequency of responses: As needed, estimated 4 per year.

(2) *Annual reporting and recordkeeping burden:*

Total annual reporting per response: 15 minutes.

Total number of estimated responses: 342,247.

Total annual reporting: 85,562 hours.

(3) *Description of the need and use of the information:* This information collection is needed and used to process deposits, investments, and distribution of monies from accounts held in trust by the Office of the Special Trustee for American Indians, individual Indians in the administration of these accounts. The respondents submit information in order to gain or retain a benefit, namely, access to funds held in trust.

III. Request for Comments

The Department of the Interior invites comments on:

(a) 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;

(b) The accuracy of the agency's estimate of the burden of the collection of information and the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on respondents, including the through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

''Burden'' means the total time, effort, and financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

All comments, with names and addresses, will be available for public inspection. Before including Personally Identifiable Information (PII), such as your address, phone number, email address, or other personal information in your comment(s), you should be aware that your entire comment (including PII) may be made available to the public at any time. If you wish us to withhold your personally identifiable information (PII), you must prominently state it at the beginning of your comments what information that you want us to withhold from public view. While you may ask us in your comment to withhold PII from public view, we cannot guarantee that we will be able to do so. If you wish to view any comments received, you may do so by scheduling an appointment with the Office of the Special Trustee for American Indians, by using the contact information in the **ADDRESSES** section above. A valid picture identification is required for entry into the Department of the Interior.

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.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

Dated: March 10, 2016.

Doug Lords,

Deputy Special Trustee—Field Operations, Office of the Special Trustee for American Indians.

[FR Doc. 2016–06235 Filed 3–18–16; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNMA00000 L12200000.AL0000 16XL1109AF]

Notice of Public Meeting, Albuquerque District Resource Advisory Council Meeting, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act, the Bureau of Land Management (BLM), Albuquerque District Resource Advisory Council (RAC) will meet as indicated below.

DATES: The RAC will meet on Thursday, March 31, 2016, at the Socorro Field Office, 901 South Highway 85, Socorro, New Mexico, from 9:30 a.m.–4 p.m. The public may send written comments to the RAC at the BLM Albuquerque District Office, 100 Sun Avenue Northeast, Pan American Building, Suite 330, Albuquerque, NM 87109.

FOR FURTHER INFORMATION CONTACT: Carlos Coontz, 575–838–1263, BLM Socorro Field Office, 901 South Highway 85, Socorro, NM 87101. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8229 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 10-member Albuquerque District RAC advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues

associated with public land management in New Mexico's Albuquerque District.

Planned agenda items include updates on: Renewal of the RAC Charter, Discussion of Minutes, Term Length and Membership, National Off-Highway Vehicle Conservation Council, Rio Puerco Resource Management Plan Update, El Malpais Venue Improvements, San Antonio Elementary School Recreation & Public Purposes Act Lease, Arizona Interconnection Project Access Roads Permitting, and the Proposed Land Acquisition for the Continental Divide National Scenic Trail. There will also be a discussion on Safety, Identifying the Next Quarterly RAC Meeting, and Open Discussion.

A half-hour comment period during which the public may address the RAC will begin at 11 a.m. All RAC meetings are open to the public. Depending on the number of individuals wishing to comment and time available, the time for individual oral comments may be limited.

Byron Loosle,

Acting Deputy State Director, Lands and Resources.

[FR Doc. 2016–06267 Filed 3–18–16; 8:45 am]

BILLING CODE 4310–FB–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–282 (Fourth Review)]

Petroleum Wax Candles From China; Scheduling of an Expedited Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the antidumping duty order on petroleum wax candles from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: Effective Date: March 7, 2016.

FOR FURTHER INFORMATION CONTACT: Joseph Traw (205–3062), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On March 7, 2016, the Commission determined that the domestic interested party group response to its notice of institution (80 FR 75130, December 1, 2015) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.[1] Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)).

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Staff report.—A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on March 21, 2016, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to § 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in § 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution, and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before April 6, 2016 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by April 6, 2016. However, should the Department of Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules with respect to filing were revised effective July 25, 2014. *See* 79 FR 35920 (June 25, 2014), and the revised Commission Handbook on E-filing, available from the Commission's Web site at *http://edis.usitc.gov.*

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination: The Commission has determined that this review is extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: March 15, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–06246 Filed 3–18–16; 8:45 am]

BILLING CODE 7020–02–P

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Open Platform for NFV Project, Inc.

Notice is hereby given that, on February 16, 2016, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Open Platform for NFV Project, Inc. (''Open Platform for NFV Project'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose

of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Centre of Excellence in Next Generation Networks, Ottawa, Ontario, CANADA; Electronics and Telecommunications Research Institute, Daejeon, REPUBLIC OF KOREA; Openet Telecom Ltd., Dublin, IRELAND; SUSE LLC, Seattle, WA; and University of New Hampshire InterOperability Laboratory, Durham, NH, have been added as parties to this venture.

Also, Array Networks, Inc., Milpitas, CA, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Open Platform for NFV Project intends to file additional written notifications disclosing all changes in membership.

On October 17, 2014, Open Platform for NFV Project filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on November 14, 2014 (79 FR 68301).

The last notification was filed with the Department on November 27, 2015. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on December 23, 2015 (80 FR 79930).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2016–06243 Filed 3–18–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National C4/Cyber Consortium (Formerly National Cyberspace Consortium)

Notice is hereby given that, on February 19, 2016, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Cyberspace Consortium (''NCC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership, nature and objectives. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. National Cyber Space Consortium has changed its name to National C4/Cyber Consortium (''NCC''). In addition, the following members have been added as parties to this venture: 8 Consulting, LLC, Arlington, VA; ARMUS Consulting LLC, Vero Beach, FL; BOLDLogic, Huntsville, AL; COLSA Corporation, Huntsville, AL; Command Decision Systems & Solutions, Inc., Stafford, VA; Cougaar Software, Inc., Vienna, VA; D2|TEAM-Sim, Somerset, NJ; Daniels & Gillespie Group, LLC, Huntsville, AL; Darkblade Systems, Stafford, VA; DIB ISAC, Huntsville, AL; FEDITC, LLC, San Antonio, TX; General Dynamics Advanced Information Systems, Inc. (GDAIS), Fairfax, VA; General Dynamics Land Systems Maneuver Collaboration Center (mc2), Sterling Heights, MI; Goldbelt Falcon, LLC, Chesapeake, VA; Information Analysis Incorporated, Fairfax, VA; International Business Machines (IBM), Armonk, NY; John H. Northrop & Associates, Inc., Clifton, VA; Keysight Technologies, Inc., Santa Rosa, CA; Liberty Business Associates, LLC, North Charleston, SC; Norse Corporation, Saint Louis, MO; Quantum Research International, Inc., Huntsville, AL; Rogue Digital, Northwich, ENGLAND; Sabre Systems, Inc., Warrington, PA; Secursion LLC, Clearfield, UT; Sentar, Inc., Huntsville, AL; SRA International, Inc., Fairfax, VA; SRC Consulting Group LLC, Oakland, CA; SRI International, Princeton, NJ; Thoughtly, Corp., Chicago, IL; University of California, Davis, CA; University of Pittsburgh, Pittsburgh, PA; and Venturi, Inc., Huntsville, AL.

The general area of NCC's planned activity is to develop and mature technologies in the critical fields of command, control, communications, computer, and cyber technologies.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NCC intends to file additional written notifications disclosing all changes in membership.

On December 3, 2015, NCC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on January 22, 2016 (81 FR 3822).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2016–06244 Filed 3–18–16; 8:45 am]

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DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—AllSeen Alliance, Inc.

Notice is hereby given that, on February 23, 2016, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), AllSeen Alliance, Inc. (''AllSeen Alliance'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Onbiron Bilişim, Ar-Ge Ltd. Şti, Çankaya, Ankara, TURKEY; Integrated Service Technology, Inc., Hsinchu City, TAIWAN; Y8 studio, Inc., West Hollywood, CA; Enphase Energy, Inc., Petaluma, CA; General Mobile Corporation, Taipei, TAIWAN; and Domotz UK LLP, London, UNITED KINGDOM, have been added as parties to this venture.

Also, 2lemetry LLC, Denver, CO; D-Link Systems, Inc., Fountain Valley, CA; HTC Corporation, Taoyuan County, TAIWAN; Patavina Technologies s.r.l. Padova, ITALY; Silicon Image, Sunnyvale, CA; The Sprosty Network, Fort Lauderdale, FL; GeoPal Solutions, Dublin, IRELAND; and Openmind Networks, Inc., Mountain View, CA, have withdrawn as parties to this venture.

In addition, Beijing HengShengDongYang Technology Co., Ltd., has changed its name to Beijing SmartConn, ChaoYang District, Beijing, PEOPLE'S REPUBLIC OF CHINA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and AllSeen Alliance intends to file additional written notifications disclosing all changes in membership.

On January 29, 2014, AllSeen Alliance filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 4, 2014 (79 FR 12223).

The last notification was filed with the Department on December 18, 2015. A notice was published in the **Federal**

Register pursuant to section 6(b) of the Act on January 22, 2016 (81 FR 3821).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2016–06242 Filed 3–18–16; 8:45 am]

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DEPARTMENT OF JUSTICE

Antitrust Division

United States et al. v. Springleaf Holdings, Inc., et al.; Public Comment and Response on Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States hereby publishes below the comment received on the proposed Final Judgment in *United States et. al.* v. *Springleaf Holdings, Inc., et. al.,* Civil Action No. 15–1992 (RMC), together with the Response of the United States to Public Comment.

Copies of the comment and the United States' Response are available for inspection on the Antitrust Division's Web site at *http://www.justice.gov/atr,* and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Patricia A. Brink,

Director of Civil Enforcement.

United States District Court for the District of Columbia

United States of America, State of Colorado, State of Idaho, Commonwealth of Pennsylvania, State of Texas, Commonwealth of Virginia, State of Washington, and State of West Virginia, Plaintiffs, v. *Springleaf Holdings, Inc., Onemain Financial Holdings, LLC, and Citifinancial Credit Company, Defendants.* Case No.: 1:15-cv-01992 (RMC)

Response of Plaintiff United States to Public Comment on the Proposed Final Judgment

Pursuant to the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h) (''APPA'' or ''Tunney Act''), the United States hereby files the single public comment received concerning the proposed Final Judgment in this case and the United States's response to the comment. After careful consideration of the submitted comment, the United States continues to believe that the proposed Final Judgment provides an effective and appropriate remedy for the antitrust violations alleged in the Complaint. The United States will move the Court for entry of the proposed Final Judgment after the public comment and this Response have been published in the **Federal Register** pursuant to 15 U.S.C. § 16(d).

I. Procedural History

On March 2, 2015, Springleaf Holdings, Inc. (''Springleaf'') entered into a purchase agreement to acquire OneMain Financial Holdings, LLC (''OneMain'') from CitiFinancial Credit Company for $4.25 billion. On November 13, 2015, the United States and the States of Colorado, Idaho, Texas, Washington and West Virginia and the Commonwealths of Pennsylvania and Virginia (collectively ''Plaintiffs'') filed a civil antitrust Complaint seeking to enjoin Springleaf from acquiring OneMain. Plaintiffs alleged in the Complaint that the proposed acquisition likely would substantially lessen competition for personal installment loans to subprime borrowers in numerous local areas in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

Simultaneously with the filing of the Complaint, Plaintiffs filed a proposed Final Judgment, an Asset Preservation Stipulation and Order, and a Competitive Impact Statement (''CIS''). As required by the Tunney Act, the United States published the proposed Final Judgment and CIS in the **Federal Register** on November 24, 2015, *see* 80 FR 73212, and caused to be published summaries of the proposed Final Judgment and CIS, together with directions for the submission of written comments relating to the proposed Final Judgment, in *The Washington Post* for seven days from November 20 to November 26, 2015. The 60-day period for public comments ended on January 25, 2016. The United States received one comment, which is described below and attached hereto as Exhibit 1.

II. The Investigation and the Proposed Settlement

The proposed Final Judgment is the culmination of more than six months of investigation by the Antitrust Division of the United States Department of Justice (''Department''), along with Offices of the State Attorneys General of Colorado, Idaho, Texas, Washington, West Virginia, Pennsylvania, and Virginia (collectively ''States''). As part of the investigation, the Department issued 21 Civil Investigative Demands for documents and information and collected more than 350,000 documents from the Defendants and third parties. The Department also conducted interviews with competitors, obtained information from state regulators, and deposed six Springleaf and OneMain business executives. In addition, the Department consulted consumer advocacy groups to solicit their views about the proposed acquisition. The Department carefully analyzed the information it obtained from these sources and thoroughly considered all of the issues presented.

The Department found that the proposed acquisition likely would have eliminated substantial head-to-head competition between Springleaf and OneMain in the provision of personal installment loans to subprime borrowers in local areas within and around 126 towns and municipalities in 11 states. In these areas, Springleaf and OneMain are the largest providers of personal installment loans to subprime borrowers, and face little, if any, competition from other personal installment lenders. Without the benefit of competition between Springleaf and OneMain, the Department concluded that prices and other terms for personal installment loans to subprime borrowers would become less favorable, and access to such loans by subprime borrowers would decrease. For these reasons, the Department, joined by the States, filed a civil antitrust lawsuit to enjoin the merger and alleged that the proposed transaction violated Section 7 of the Clayton Act, 15 U.S.C. § 18.

The proposed Final Judgment eliminates the anticompetitive effects identified in the Complaint by requiring Defendants to divest 127 Springleaf branches to Lendmark Financial Services or to one or more alternative acquirers acceptable to the United States. The branches to be divested are located in the local areas within and around the 126 towns and municipalities identified in the Complaint. The divestitures will establish Lendmark as a new, independent, and economically viable competitor in some states and local areas and allow Lendmark to enhance its competitive presence in others.

Since Plaintiffs submitted the proposed Final Judgment on November 13, 2015, Lendmark has begun the process of obtaining state licenses for the acquisition of the 127 Springleaf branches. In addition, the Court appointed Patricia A. Murphy as Monitoring Trustee on January 19, 2016.

III. Standard of Judicial Review

The Tunney Act requires that proposed consent judgments in antitrust cases brought by the United States be subject to a 60-day public comment period, after which the court shall

determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. § 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e)(1). In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *see also United States* v. *SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1, 10–11 (D.D.C. 2007) (assessing public interest standard under the Tunney Act); *United States* v. *InBev N.V./S.A.,* No. 08-cv-1965 (JR), 2009 U.S. Dist. LEXIS 84787, at *3 (D.D.C. Aug. 11, 2009) (discussing nature of review of consent judgment under the Tunney Act; inquiry is limited to ''whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanisms to enforce the final judgment are clear and manageable'').

Under the APPA, a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the Complaint, whether the decree is sufficiently clear, whether the enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)). Instead, courts have held that:

[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement in ''*within the reaches of the public interest.*'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).

In determining whether a proposed settlement is in the public interest, ''the court 'must accord deference to the government's predictions about the efficacy of its remedies.' '' *United States* v. *U.S. Airways Grp., Inc.,* 38 F. Supp. 3d 69, 76 (D.D.C. 2014) (quoting *SBC Commc'ns,* 489 F. Supp. at 17). *See also Microsoft,* 56 F.3d at 1461 (noting that the government is entitled to deference as to its ''predictions as to the effect of the proposed remedies''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States's ''prediction as to the effect of the proposed remedies, its perception of the market structure, and its views of the nature of the case''); *United States* v. *Morgan Stanley,* 881 F. Supp. 2d 563, 567–68 (S.D.N.Y. 2012) (explaining that the government is entitled to deference in choice of remedies).

Courts ''may not require that the remedies perfectly match the alleged violations.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17. Rather, the ultimate question is whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest.' '' *Microsoft,* 56 F.3d at 1461. Accordingly, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17; *see also United States* v. *Apple, Inc.* 889 F. Supp. 2d 623, 631 (S.D.N.Y. 2012). And, a ''proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is within the reaches of the public interest.'' *United States* v. *Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations and internal quotations omitted); *see also United States* v. *Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy).

In its 2004 amendments to the Tunney Act,[1] Congress made clear its intent to preserve the practical benefits of using consent decrees in antitrust enforcement, adding the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. § 16(e)(2). The procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of the Tunney Act proceedings.'' *SBC Commc'ns,* 489 F. Supp. 2d at 11; *see also United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (''[T]he Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to public comments alone.''); *US Airways,* 38 F. Supp. 3d at 76 (same).

IV. Summary of Public Comment and the United States's Response

The United States received one public comment from the Center for Responsible Lending (''CRL''), a nonprofit, nonpartisan research and policy organization that seeks to eliminate abusive financial practices. CRL submitted the comment to provide additional context about the personal installment loan industry and highlight what CRL believes to be abusive industry practices that the proposed Final Judgment does not address. In particular, CRL describes three alleged lending practices of particular concern: (1) the high incidence of repeat refinancing, which CRL claims is indicative of the industry's widespread extension of loans that borrowers do not have the ability to repay; (2) the sale of ancillary products such as credit insurance with installment loans, which CRL alleges significantly increases borrowing costs and lender fees; and (3) the tendency of personal installment

[1] The 2004 amendments substituted ''shall'' for ''may'' in directing relevant factors for courts to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. § 16(e) (2004), *with* 15 U.S.C. § 16(e)(1) (2006); *see also SBC Commc'ns,* 489 F. Supp. 2d at 11 (concluding that the 2004 amendments ''effected minimal changes'' to Tunney Act review).

lenders to charge the maximum interest rate permitted under state law, which CRL claims to occur regardless of the borrower's creditworthiness. Taken together, CRL suggests that these alleged practices demonstrate that personal installment loans offer little benefit to consumers and often lead to more financial harm than help.

The Department appreciates CRL's advocacy efforts on behalf of consumers and takes CRL's concerns about possible abusive industry practices seriously. However, the Department is tasked with enforcing the antitrust laws of the United States and does not have jurisdiction to address other issues of consumer protection that fall within the purview of agencies such as the Consumer Financial Protection Bureau. The Department's antitrust investigation was limited to analysis of Springleaf's proposed acquisition of OneMain and its likely competitive effects. In reaching the proposed settlement, the Department concluded that there was direct and meaningful competition between Springleaf and OneMain (competition that was not limited to branding and branch location, as suggested in CRL's comment); that subprime borrowers benefitted from this head-to-head competition; and that the loss of this competition would likely result in higher prices and less favorable terms for personal installment loans in over 120 local areas in 11 states. The divestitures set forth in the proposed Final Judgment seek to eliminate these anticompetitive effects in all of the local areas of concern.

CRL's comment suggests that the Department should—as part of its review of the proposed merger—investigate and take steps to remedy alleged industry practices that are outside of the Department's merger review and thus are not (and cannot be) challenged in the Complaint. It is well-settled that comments, such as CRL's comment, that are unrelated to the concerns identified in the complaint reach beyond the scope of this Court's Tunney Act review. *See, e.g., SBC Commc'ns,* 489 F. Supp. 2d at 14 (holding that ''a district court is not permitted to 'reach beyond the complaint to evaluate claims that the government did *not* make and to inquire as to why they were not made' '') (quoting *Microsoft,* 56 F.3d at 1459) (emphasis in original); *see also US Airways,* 38 F. Supp. 3d at 76. Accordingly, CRL's comment does not provide a basis for rejecting the proposed Final Judgment.

V. Conclusion

After reviewing the public comment, the United States continues to believe that the proposed Final Judgment, as drafted, provides an effective and appropriate remedy for the antitrust violations alleged in the Complaint, and is therefore in the public interest. The United States will move this Court to enter the proposed Final Judgment after the comment and this response are published in the **Federal Register**.

Dated: March 08, 2016

Respectfully submitted,

_____/s/_____

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Comments From the Center for Responsible Lending to the U.S. Department of Justice Regarding United States et al. v. Springleaf Holdings, Inc., et al.; Proposed Final Judgment and Competitive Impact Statement

January 23, 2016

The Center for Responsible Lending [1] submits this comment to provide additional context about the consumer installment loan market, in particular to highlight issues unaddressed by the proposed settlement with One Main and Springleaf. In this letter, the undersigned organizations bring to your attention three areas of concern that the settlement did not address, but which have a significant impact on borrowers:

- The high incidence of repeat refinancing in the industry;
- The sale of ancillary products such as credit insurance that significantly increase the cost of installment loans while providing very little benefit to borrowers; and
- The tendency of lenders to charge the maximum interest rate permitted under state law regardless of the creditworthiness of the borrower.

We were also particularly concerned about the Department's characterization of installment loans as a ''lifeline'' for consumers. Loans that are not appropriately underwritten such that a borrower can repay them without refinancing are not a lifeline. Neither are loans laden with credit insurance products that significantly increase the cost of the loan while providing little to no benefit to the borrower a lifeline. Rather, installment loans like those that OneMain and Springleaf make often sink borrowers into inescapable debt.

Repeat refinancings provide lenders the opportunity to extend the length of the loan and charge new origination or processing fees, but often fail to generate benefits for the borrower. Worse, refinancing allows the lender to sell new add-on credit insurance products. This creates a harmful, symbiotic relationship between refinancing and add-on products—refinancing is not only a powerful and lucrative incentive for installment lenders to extend the loan, but the ability to sell new insurance products with each loan that provide substantial compensation to the lender results in added cost to the borrowers with little or no benefit.

Repeat Refinancing Indicates Unaffordable Loans or Lending Without Regard to Ability to Repay

Regardless of the type of loan product, evidence of significant repeat refinancing is a signal of troublesome practices. Typically, the original loan was not made on terms affordable to the borrower and/or the lender is engaged in loan flipping to increase the costs of the credit and extend the indebtedness. In fact, longstanding applications of the principle of ''ability to repay'' provide that it means determining the borrower can afford to repay a loan *without refinancing, renewing, or reborrowing.*[2] Installment loans have been associated with repeated refinances that account for as much two-thirds of loan business. Upon refinancing, the lender assesses new fees and add-on products where allowed while extending the term of the loan. Consumers are typically not given an adequate rebate of charges prepaid on the first loan.

These loans are often secured by a borrower's personal property, car or both. This practice provides the lender extraordinary leverage over the borrower as well as the opportunity to require and sell expensive property

[1] The Center for Responsible Lending (CRL), a nonprofit, nonpartisan research and policy organization dedicated to protecting homeownership and family wealth by working to eliminate abusive financial practices. CRL is an affiliate of Self-Help, a nonprofit community development financial institution. For thirty years, Self-Help has focused on creating asset-building opportunities for low-income, rural, women-headed, and minority families, primarily through financing safe, affordable home loans and small business loans. In total, Self-Help has provided $6 billion in financing to 70,000 homebuyers, small businesses and nonprofit organizations and serves more than 80,000 mostly low-income families through 30 retail credit union branches in North Carolina, California, and Chicago.

[2] *See, e.g.,* the Federal Reserve Board's 2009 rules under the Home Ownership and Equity Protection Act (HOEPA), which note that ''[l]ending without regard to repayment ability . . . facilitates an abusive strategy of 'flipping' borrowers in a succession of refinancings.'' Federal Reserve System, Truth in Lending, Regulation Z; Final Rule, 73 FR 44522, 44542 (July 30, 2008).

insurance. In the case of loans secured by personal property, it is extremely unlikely that upon default the lender will repossess used personal property of little value, but the threat of repossession is an effective collection tactic.[3] It is for this reason that the FTC banned the practice of securing loans with household goods, but the decades-old rule has not been updated to include items such as computers and smartphones. Even in the case of auto title loans, where lenders do repossess the vehicles, the primary purpose of holding the title is to coerce repayment of an unaffordable loan.

A front-page New York Times article noted that, although OneMain Financial ''offers its borrowers unsecured, installment loans with interest rates of up to 36 percent,'' many of its borrowers refinance the loan.[4] (Note: Importantly, this interest rate excludes the typically significant cost of ancillary products, discussed further below.) According to the New York Times: ''About 60 percent of OneMain's loans are so-called renewals'' that may essentially be '' 'default masking' because borrowers may be able to refinance before they run into trouble paying back their current balance.'' [5]

In addition, in documents related to the securitization of the loans, OneMain notes, ''In certain cases, a Renewal may be offered to customers whose personal loans are in the early stages of delinquency.'' [6]

Likewise, Springleaf also emphasizes the importance of loan renewals to its business plan, expecting ''a substantial portion of the Loans will be renewed . . . .'' [7] It further notes: ''[E]ffecting renewals of personal loans for current personal loan borrowers who have demonstrated their ability and willingness to repay amounts owed to Springleaf into new and larger personal loans is an important part of Springleaf's branch lending business.'' [8]

These trends of repeat refinancing extend beyond these individual national companies, but rather appear to permeate the consumer installment industry as a whole. In North Carolina, for example, where the state regulator collects annual data on installment lending, in 2014, 80 percent of loans made by all consumer finance companies in the state were re-financings of outstanding loans or the origination of new loans to previous customers.[9]

Ancillary Products Significantly Increase the Cost of Loans Above Their Stated Interest Rate, While Providing Notoriously Little Benefit to Borrowers

Add-on products are of particular concern in installment loans, yet the settlement is silent as to this additional cost. Installment loans frequently include high-cost ancillary products like credit life and disability insurance and/or discount clubs or plans that increase the cost of credit significantly. Refinancing exacerbates the harms caused by add-on products, giving additional opportunities for lenders to pack additional fees into each loan.

As a signal of the harms of these ancillary products, in 2006, when Congress enacted the Military Lending Act's cap of a 36% Military APR (MAPR) on consumer credit extended to active duty families, it specifically included, within the calculation of the cap, charges for credit insurance and other ancillary products sold in connection with credit transactions. In 2014, the U.S. Department of Defense noted, ''[O]ther costs to the consumer not included in the APR could make loans below 36% above that threshold when considered as part of that calculation. These additional costs, along with repeated refinancing have come under scrutiny.'' [10] As a result of these concerns, in 2015, the U.S. Department of Defense updated its rules implementing the MLA not only to extend the 36% MAPR to installment loans but also to ensure that the MAPR is always inclusive of credit insurance and other ancillary products.[11]

A recent investigative series into the sale of credit insurance highlighted both the significant increased cost to borrowers and the significant lack of value these products provide.[12] For example, one installment loan described in the investigative series was made to a Service member with an APR of 90% but actually had an effective 182% MAPR when the ancillary products were included. In another example, ''A $2,475 installment loan made [by TMX Finance] to a soldier at Fort Stewart near Savannah, Ga., in 2011 . . . carried a 43 percent annual rate over 14 months—but that rate effectively soared to 80 percent when the insurance products were included. To get the loan, the soldier surrendered the title to his car.'' The investigation further describes how some employees of lenders deliberately conceal or misrepresent the add-on products from the borrower.[13] This same investigative series also showed how installment lenders sell loss of income insurance to individuals receiving government benefits, such as social security or government pensions.[14]

Borrowers are also likely to have a poor understanding of potential exclusions for the insurance purchased or may be misled to believe that the insurance policy covers more than it does. For example, one man who purchased credit disability insurance lost two fingers in a work-related accident but was denied coverage because the policy only paid if the borrower lost at least four fingers or the whole hand.[15]

These add-ons accrue notoriously little benefit to borrowers. A key measure of the efficacy of insurance programs is the loss ratio—the percentage of premiums that are paid out in claims. We do not know the loss ratios of the Springleaf or One Main credit insurance products, but available evidence about other products indicates that credit insurance often has little value for the consumer. For one insurance company whose products are sold by consumer finance companies, 69 percent of the premiums went to back

[3] Indeed, given this extraordinary, coercive leverage, repayment of a loan secured by personal property is far from indication that a borrower had a genuine ability to afford the loan while meeting ongoing expenses; it means only that the lender was able to extract payment. (footnoting b/c thinking it seems good to include but don't want to interrupt the refinance flow).

[4] Michael Corkery, ''States Ease Interest Rate Laws That Protected Poor Borrowers,'' New York Times, Oct. 21, 2014.

[5] Id.

[6] OneMain Financial, OMFIT 2015–3 Private Placement Memorandum, at 91, *http://files.shareholder.com/downloads/AMDA-28PMI5/1321842233x0x867148/8308BAA5-B813-4111-84BC-31DCD0DD0918/OMFIT_2015–3_--_Final_PPM.pdf.*

[7] Springleaf Financial Services, 2013–A Private Placement Memorandum, *http://investor.springleaf financial.com/asset-backed-securities.cfm.*

[8] Id.

[9] *http://www.nccob.org/Public/docs/Financial %20Institutions/Consumer%20Finance/2014_Annual_Report.pdf*

[10] U.S. Department of Defense, ''Report: Enhancement of Protections on Consumer Credit for Members of the Armed Forces and Their Dependents'' (April 2014).

[11] U.S. Department of Defense, ''Limitations on Terms of Consumer Credit Extended to Service Members and Dependents,'' Final Rule, July 2015, *https://www.gpo.gov/fdsys/pkg/FR-2015-07-22/pdf/2015-17480.pdf.*

[12] The ProPublica series on installment lending from May 2013 is at: *http://www.marketplace.org/topics/wealth-poverty/beyond-payday-loans/victory-drive-soldiers-defeated-debt-story-propublica.*

[13] Id., (''You were supposed to tell the customer you could not do the loan without them purchasing all of the insurance products, and you never said 'purchase,' . . . You said they are 'included with the loan' and focused on how wonderful they are . . . Every new person who came in, we always hit and maximized with the insurance . . . That was money that went back to the company.'').

[14] Complaint, *Illinois* v. *CMK Investments, Inc.,*

[15] Paul Kiel, *The 182 Percent Loan: How Installment Lenders Put Borrowers in a World of Hurt,* ProPublica, May 13, 2013, available at *http://www.propublica.org/article/installment-loans-world-finance.*

to the lenders, while 5 percent went to pay actual insurance claims. A similar pattern holds for the sale of its accident and health policies sold in junction with the loan—in one state, Georgia, in 2011, 56 percent went back to the lenders, and only 14 percent went to claims.[16]

A series of enforcement actions by the Consumer Financial Protection Bureau provides important examples of how add-on products can be used to increase the cost of using a credit card, both at the time the account is opened and later in the relationship.[17] In July 2012, the CFPB issued a bulletin describing its supervisory experience with add-on products and clarifying the steps that supervised institutions should take to ensure that add-on products do not harm consumers or violate federal law.[18] The bulletin discussed expectations around the marketing of add-on products and associated employee compensation guidelines to ensure that financial institutions do not create an incentive to provide inaccurate information. The bulletin also highlighted the need to ensure that consumers are not required to purchase products as a condition of obtaining credit.

As noted in reports to investors, both Springleaf and OneMain sell various ancillary products, such as credit insurance and membership products, which are typically financed into the principal of the loan upon origination.[19] Both companies sell the products through affiliates; for both companies, these affiliates are significant parts of their business. For example, Springleaf notes that financed insurance premiums account for 4% of the aggregate principal loan balance, and for OneMain, they represented 5.3% of the aggregate principal balance of OneMain Financial's personal loan portfolio as of December 31, 2013.

In North Carolina, where Springleaf and OneMain comprise the two largest lenders, the sale of insurance products on installment loans made by consumer finance companies is more than double the number of loans originated, indicating that a single loan is often stacked with multiple insurance products.[20]

Further indicative that some lenders use credit insurance or other add-on sales to drive up loan costs is the fact that installment lenders tack on add-on products in states that have lower statutory caps on interest, but do not do so in states that allow for higher interest rates.[21]

A survey by the North Carolina Justice Center puts a point on how add-ons help drive refinancings. The survey of 50 cases filed by consumer finance lenders in Wake County, North Carolina, found that where there was evidence of refinancing, a majority of the ''payout'' went towards paying credit insurance fees. The average amount disbursed to borrowers was less than $1.50.

Lenders Tend To Charge the Maximum Rate Permitted Under State Law

In its 2012 annual report to investors, a national consumer installment lender noted ''that virtually all participants in the small-loan consumer finance industry charge at or close to the maximum rates permitted under applicable state laws in those states with interest rate limitations.''[22] Similarly, in an in-depth examination of the consumer installment lending industry, the NC Commission on Banks determined that ''licensees were charging the maximum blended rate allowable.''[23] There is no competition on price in this market—rather, any competition is centered around store location and branding. For consumers, the presence of more or different lenders in a community will have no meaningful impact on the cost of installment loans.

We urge the Department to consider this information carefully, and to clarify its statement that these loans are helpful to communities in need. As this information shows, too often these loans lead to financial harm, not help.

[FR Doc. 2016–06238 Filed 3–18–16; 8:45 am]

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[16] Id.

[17] See summary of CFPB enforcement actions in Comments of Center for Responsible Lending, National Consumer Law Center, Consumer Federation of America, Consumer Action, and U.S. PIRG, to U.S Department of Defense, December 31, 2014, *http://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/mla_comments_12242014.pdf.*

[18] Marketing of Credit Card Add-on Products. CFPB Bulletin 2012–06. Washington, DC: Consumer Financial Protection Bureau, July 18, 2012. *http://files.consumerfinance.gov/f/201207_cfpb_bulletin_marketing_of_credit_card_addon_products.pdf.*

[19] Springleaf Financial Services, 2015–B Private Placement Memorandum, *http://investor.springleaffinancial.com/asset-backed-securities.cfm* ''Springleaf, Springleaf sells credit insurance products to its personal loan borrowers. These products are provided by a group of Springleaf-affiliated insurance companies and insure the personal loan borrower's payment obligations on the related personal loan in the event of such personal loan borrower's inability to make monthly payments due to death, disability or involuntary unemployment. Payment of the associated premiums can be made by the Borrower separately, but except in very rare instances, the personal loan borrower finances payment of the premium and it is included in the principal balance of the applicable personal loan. The financing of credit insurance products premiums generally represents approximately 4.00% of the aggregate principal balance of Springleaf's personal loan portfolio.''

OneMain Financial, OMFIT 2015–3 Private Placement Memorandum, at 91, *http://files.shareholder.com/downloads/AMDA-28PMI5/1321842233x0x867148/8308BAA5-B813-4111-84BC-31DCD0DD0918/OMFIT_2015-3_-_Final_PPM.pdf* ''OneMain Financial offers its customers optional credit insurance products and membership programs, and the premiums and fees for these products and programs typically are financed as part of the principal balance of the applicable personal loan. See ''*Underwriting Process and Standards—Optional Products: Credit Insurance and Membership Program''* in this private placement memorandum. This represents approximately 4.9% of the aggregate principal balance of OneMain Financial's personal loan portfolio as of June 30, 2015. . . . OneMain Financial offers optional insurance products to its customers through its affiliated insurance companies American Health and Life Insurance, Co. (''AHL''), and Triton Insurance Company (''Triton'' and together with AHL, ''Citi Assurance Services'' or ''CAS''), as described below under ''*Underwriting Process and Standards—Optional Products: Credit Insurance and Membership Program''* in this private placement memorandum. AHL and Triton are wholly-owned subsidiaries of CCC.

[20] The North Carolina Commissioner of Banks's 2014 Consumer Finance Annual Report showed more than 1.2 million credit insurance products were sold on only 495,682 loans. *http://www.nccob.org/Public/docs/Financial%20Institutions/Consumer%20Finance/2014_Annual_Report.pdf*

[21] Kiel, Paul, ''The 182 Percent Loan: How Installment Lenders Put Borrowers in a World of Hurt,'' ProPublica, May 13, 2014. *http://www.propublica.org/article/installment-loans-world-finance.*

[22] World Acceptance Corporation, SEC Filing 10–K, March 31, 2012.

[23] N.C. Commissioner of Banks, ''The Consumer Finance Act: Report and Recommendations to the 2011 General Assembly.'' February 2011.

DEPARTMENT OF JUSTICE

[OMB Number 1103–0100]

Agency Information Collection Activities: Proposed eCollection eComments Requested Monitoring Information Collections

AGENCY: Community Orient Policing Services, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register** at 81 FR 1443, on January 12, 2016, to obtain comments from the public and affected agencies.

DATES: The purpose of this notice is to allow for an additional 30 days until April 20, 2016.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the

estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Lashon M. Hilliard, Department of Justice Office of Community Oriented Policing Services, 145 N Street NE., Washington, DC 20530. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Monitoring Information Collections.

(3) *Agency form number:* 1103–0100 U.S. Department of Justice Office of Community Oriented Policing Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: COPS Office hiring grantees that are selected for in-depth monitoring of their grant implementation and equipment grantees that report using COPS funds to implement a criminal intelligence system will be required to respond. The Monitoring Information Collections include two types of information collections: the Monitoring Request for Documentation and the 28 CFR part 23 Monitoring Kit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 150 respondents annually will complete the Monitoring Request for Documentation at 3 hours per respondent.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 450 total annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E.405B, Washington, DC 20530.

Dated: March 15, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–06224 Filed 3–18–16; 8:45 am]

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DEPARTMENT OF JUSTICE

[OMB Number 1103–0098]

Agency Information Collection Activities; Proposed eCollection eComments Requested; COPS Application Package

AGENCY: Community Oriented Policing Services, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register** at 81 FR 1644, on January 13, 2016, to obtain comments from the public and affected agencies.

DATES: The purpose of this notice is to allow for an additional 30 days for public comment April 20, 2016.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Lashon M. Hilliard, Department of Justice Office of Community Oriented Policing Services, 145 N Street NE., Washington, DC 20530. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* COPS Application Package.

(3) *Agency form number:* 1103–0098 U.S. Department of Justice Office of Community Oriented Policing Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: COPS Office grantees.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* The estimated total number of respondents is 5,000. The estimated hourly burden to the applicant is 11 hours for each respondent to review the instructions and complete the application.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 55,000 total annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E.405B, Washington, DC 20530.

Dated: March 15, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–06223 Filed 3–18–16; 8:45 am]

BILLING CODE 4410–AT–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2012–0039]

The Standard on Process Safety Management of Highly Hazardous Chemicals; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

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

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend and revise the Office of Management and Budget's (OMB) approval of the information collection requirements contained in the Standard on Process Safety Management (PSM) of Highly Hazardous Chemicals.

DATES: Comments must be submitted (postmarked, sent, or received) by May 20, 2016.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2012–0039, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and the OSHA docket number (OSHA–2012–0039) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing collection of information requirements in accord with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The collections of information in the Standard are necessary for implementation of the requirements of the Standard. The information is used by employers to ensure that processes using highly hazardous chemicals with the potential for a catastrophic release are operated as safely as possible. The employer must thoroughly consider all facets of a process, as well as the involvement of employees in that process. Employers analyze processes so that they can identify, evaluate and control problems that could lead to a major release, fire, or explosion.

The major information collection requirements in this Standard include: Consulting with workers and their representatives on and providing them access to process hazard analyses and the development of other elements of the standard; developing a written action plan for implementing employee participation in process hazard analyses and other elements of the standard; completing a compilation of written process safety information; performing a process hazard analysis; documenting actions taken to resolve process hazard analysis team findings and recommendations; updating, revalidating and retaining the process hazard analysis; developing and implementing written operating procedures that are accessible to workers; reviewing operating procedures as often as necessary and certifying the procedures annually; developing and implementing safe work practices; preparing training records; informing contract employers of known hazards and pertinent provisions of the emergency action plan; maintaining a contract worker injury and illness log; establishing written procedures to maintain the integrity of and document inspections and tests of process equipment; providing information on permits issued for hot work operations; establishing and implementing written procedures to manage process changes; preparing reports at the conclusion of incident investigations, documenting resolutions and corrective measures, and reviewing the reports with affected personnel; establishing and implementing an emergency action plan; developing a compliance audit report and certifying compliance; and disclosing information necessary to

comply with the Standard to persons responsible for compiling process safety information.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed collection of information requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the collection of information requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB approve the proposed extension and revision of the collections of information contained in OSHA's PSM Standard. The Agency is requesting a decrease in burden hours of 547,491 hours, from 4,630,107 to 4,082,616 burden hours in the initial year. There is an ''adjustment'' reduction of 726,317 hours as a result of reducing the number of establishments and processes covered in the existing ICR. This reduction is offset by a ''program change'' increase of 178,826 burden hours. The burden hour increase mainly results from this ICR including additional establishments as a result of OSHA (1) revising its interpretation of the Standard's retail exemption, and (2) revising its enforcement policy on the minimum concentration of a chemical in a process needed in order to count that chemical toward the threshold quantity levels that trigger coverage under the PSM Standard.

In subsequent years, OSHA seeks a 2,195,202 burden hours increase from the initial proposed burden hours from 4,082,616 to 6,277,818 as a result of including retail exemption and concentration change establishments in recurring collections of information such as updating and revalidating process hazard analyses.

Type of Review: Revision of a currently approved collection.

Title: Process Safety Management of Highly Hazardous Chemicals (PSM) (29 CFR 1910.119).

OMB Control Number: 1218–0200.

Affected Public: Businesses or other for-profits.

Number of Respondents: Initial 11,114; Recurring: 11,114.

Frequency of Response: On Occasion: Annually.

Total Responses: Initial 833,007; Recurring 832,608.

Average Time per Response: Time varies per response from three minutes (.05 hour) to generate and maintain an employee training record to 55 hours per process for large establishments to develop written management of change procedures and update process safety operating procedures.

Estimated Total Burden Hours: Initial 4,082,616; Recurring 6,277,818.

Estimated Cost (Operation and Maintenance (capital)): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal; (2) by facsimile; or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number (OSHA–2012–0039) for this ICR. You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov*. Therefore, OSHA cautions commenters about submitting personal information such as their social security number and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available from the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on March 16, 2016.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2016–06307 Filed 3–18–16; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Wage and Hour Division

Agency Information Collection Activities; Comment Request; Proposed Extension of the Labor Standards for Federal Service Contracts-Regulations Information Collection

AGENCY: Wage and Hour Division, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). 44 U.S.C. 3056(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Wage and Hour Division is soliciting comments concerning its proposal to extend Office of Management and Budget (OMB) approval of the Information Collection: Labor Standards for Federal Service Contracts—Regulations 29 CFR, Part 4. A copy of the proposed information request can be

obtained by contacting the office listed below in the **FOR FURTHER INFORMATION CONTACT** section of this Notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before May 20, 2016.

ADDRESSES: You may submit comments identified by Control Number 1235–0007, by either one of the following methods: *Email: WHDPRAComments@dol.gov*; *Mail, Hand Delivery, Courier:* Division of Regulations, Legislation, and Interpretation, Wage and Hour, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW., Washington, DC 20210. *Instructions:* Please submit one copy of your comments by only one method. All submissions received must include the agency name and Control Number identified above for this information collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via email or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for OMB approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Bob Waterman, Senior Compliance Specialist, Division of Regulations, Legislation, and Interpretation, Wage and Hour, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–0406 (this is not a toll-free number). Copies of this notice may be obtained in alternative formats (Large Print, Braille, Audio Tape, or Disc), upon request, by calling (202) 693–0023 (not a toll-free number). TTY/TTD callers may dial toll-free (877) 889–5627 to obtain information or request materials in alternative formats.

SUPPLEMENTARY INFORMATION:

I. Background: The Wage and Hour Division of the U.S. Department of Labor administers the McNamara-O'Hara Service Contract Act (SCA), 41 U.S.C. 351 *et seq.* The McNamara-O'Hara Service Contract Act (SCA) applies to every contract entered into by the United States or the District of Columbia, the principal purpose of which is to furnish services to the United States through the use of service employees. The SCA requires contractors and subcontractors performing services on covered federal or District of Columbia contracts in excess of $2,500 to pay service employees in various classes no less than the monetary wage rates and to furnish fringe benefits found prevailing in the locality, or the rates (including prospective increases) contained in a predecessor contractor's collective bargaining agreement. Safety and health standards also apply to such contracts. The compensation requirements of the SCA are enforced by the Wage and Hour Division.

A. Vacation Benefit Seniority List

Service Contract Act section 2(a), provides that every contract subject to the Act must contain a provision specifying the minimum monetary wages and fringe benefits to be paid to the various classes of service employees performing work on the contract. Many wage determinations (WDs) issued for recurring services performed at the same Federal facility provide for certain vested fringe benefits (*e.g.,* vacations), which are based on the employee's total length of service with a contractor or any predecessor contractor. *See* 29 CFR. 4.162. When found to prevail, such fringe benefits are incorporated in WDs and are usually stated as ''one week paid vacation after one year's service with a contractor or successor, two weeks after two years'', etc. These provisions ensure that employees receive the vacation benefit payments that they have earned and accrued by requiring that such payments be made by successor contractors who hire the same employees who have worked over the years at the same facility in the same locality for predecessor contractors.

B. Conformance Record

Section 2(a) of the SCA provides that every contract subject to the Act must contain a provision specifying the minimum monetary wage and fringe benefits to be paid the various classes of service employees employed on the contract work. *See* 41 U.S.C. 351, *et seq.* Problems sometimes arise (1) when employees are working on service contracts in job classifications that DOL was not previously informed about and (2) when there are job classifications for which no wage data are available.

Section 4.6(b)(2) of 29 CFR part 4 provides a process for ''conforming'' (*i.e.,* adding) classifications and wage rates to the WD for classes of service employees not previously listed on a WD but where employees are actually working on an SCA covered contract. This process ensures that the requirements of section 2(a) of the Act are fulfilled and that a formal record exists as part of the contract which documents the wage rate and fringe benefits to be paid for a conformed classification while a service employee(s) is employed on the contract.

The contracting officer is required to review each contractor-proposed conformance to determine if the unlisted classes have been properly classified by the contractor so as to provide a reasonable relationship (*i.e.,* appropriate level of skill comparison) between such unlisted classifications and the classifications (and wages) listed in the WD. *See* 29 CFR 4.6(b)(2). Moreover, the contracting agency is required to forward the conformance action to the Wage and Hour Division for review and approval. *Id.* However, in any case where a contract succeeds a contract under which a class was previously conformed, the contractor may use an optional procedure known as the indexing (*i.e.,* adjusting) procedure to determine a new wage rate for a previously conformed class. *See* 29 CFR 4.6(b)(2)(iv)(B). This procedure does not require DOL approval but does require the contractor to notify the contracting agency in writing that a previously conformed class has been indexed and include information describing how the new rate was computed. *Id.*

C. Submission of Collective Bargaining Agreement (CBA)

Sections 2(a) and 4(c) of the SCA provide that any contractor which *succeeds* to a contract subject to the Act and under which substantially the same services are furnished, shall pay any service workers employed on the contract no less than the wages and fringe benefits to which such workers would have been entitled if employed under the *predecessor* contract. *See* 29 CFR 4.163(a).

Section 4.6(l)(1) of Regulations, 29 CFR part 4, requires an incumbent (predecessor) contractor to provide to the contracting officer a copy of any CBA governing the wages and fringe benefits paid service employees performing work on the contract during the contract period. These CBAs are submitted by the contracting agency to the Wage and Hour Division of the Department of Labor where they are used in issuing WDs for successor contracts subject to section 2(a) and 4(c) of SCA. See 29 CFR 4.4(c).

The Wage and Hour Division uses this information to determine whether covered employers have complied with various legal requirements of the laws administered by the Wage and Hour Division. The Wage and Hour Division seeks approval to renew this information collection related to the Labor Standards for Federal Service Contracts.

II. Review Focus: The Department of Labor is particularly interested in comments which:

• 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;

• Enhance the quality, utility, and clarity of the information to be collected;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Actions: The Department of Labor seeks an approval for the extension of this information collection that requires employers to make, maintain, and preserve records in accordance with statutory and regulatory requirements.

Type of Review: Extension.

Agency: Wage and Hour Division.

Title: Labor Standards for Federal Service Contracts—Regulations 29 CFR, Part 4.

OMB Number: 1235–0007.

Affected Public: Business or other for-profit, Not-for-profit institutions, Farms.

Total Estimated Respondents: 76,027.

Total Estimated Annual Responses: 76,027.

Estimated Total Burden Hours: 76,213.

Estimated Time per Response: Vacation Benefit Seniority List—1 hour, Conformance Record—30 minutes, Collective Bargaining Agreement—5 minutes.

Frequency: On occasion.

Total Burden Cost (capital/startup): $0.

Total Burden Costs (operation/maintenance): $0.

Dated: March 14, 2016.

Mary Ziegler,

Assistant Administrator for Policy

[FR Doc. 2016–06308 Filed 3–18–16; 8:45 am]

BILLING CODE 4510–27–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting; Institutional Advancement Committee; Correction

AGENCY: Legal Services Corporation.

ACTION: Correction notice.

SUMMARY: On March 17, 2016, the Legal Services Corporation (LSC) published a notice in the **Federal Register** (81 FR 14487) titled ''Institutional Advancement Committee Telephonic Meeting on March 22, 2016 at 10:30 a.m., EDT.'' The meeting commencement time is incorrect. This document corrects the notice by changing the commencement time to 10:00 a.m., EDT.''

CHANGES IN THE MEETING: Commencement time of the meeting is 10:00 a.m., EDT.

DATES: This correction is effective March 17, 2016.

FOR FURTHER INFORMATION CONTACT: Katherine Ward, Executive Assistant to the Vice President for Legal Affairs and General Counsel, Legal Services Corporation, 3333 K Street NW., Washington, DC 20007; (202) 295–1500; *kward@lsc.gov.*

Dated: March 17, 2016.

Katherine Ward,

Executive Assistant to the Vice President for Legal Affairs and General Counsel.

[FR Doc. 2016–06394 Filed 3–17–16; 11:15 am]

BILLING CODE 7050–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act: Notice of Agency Meeting

TIME AND DATE: 10:00 a.m., Thursday, March 24, 2016.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Corporate Stabilization Fund Quarterly Report.
2. NCUA's Rules and Regulations, Permissible Investment Activities—Bank Notes.
3. Enterprise Solutions Modernization Program.

RECESS: 11:00 a.m.

TIME AND DATE: 11:15 a.m., Thursday, March 24, 2016.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Share Insurance Appeal. Closed pursuant to Exemption (6).

FOR FURTHER INFORMATION CONTACT: Gerard Poliquin, Secretary of the Board, Telephone: 703–518–6304.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2016–06402 Filed 3–17–16; 4:15 pm]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 040–8838; NRC–2014–0097]

License Amendment Application for Source Materials License Jefferson Proving Ground

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; withdrawal by applicant.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is announcing the withdrawal of a license amendment application from the U.S. Department of the Army (the licensee) for its Jefferson Proving Ground (JPG) site located in Madison, Indiana, to decommission the site under restricted release conditions as defined in the NRC's regulations.

DATES: The license amendment application was withdrawn by the licensee on November 25, 2015.

ADDRESSES: Please refer to Docket ID NRC–2014–0097 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–2014–0097. 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 in this document

(if that document is available in ADAMS) is provided the first time that a document is referenced.

• *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: James Smith, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–6103, email: *James.Smith@nrc.gov*.

SUPPLEMENTARY INFORMATION: On August 28, 2013, the licensee submitted to the NRC an application to amend Source Materials License SUB–1435 for its JPG site located in Madison, Indiana, to decommission the site under restricted release conditions as defined in the NRC's regulations 10 CFR 20.1403 (ADAMS Accession No. ML13247A552). The NRC published a notice of opportunity to comment, request a hearing, and to petition for leave to intervene in the license amendment proceeding in the **Federal Register** on April 28, 2014 (79 FR 23384).

On November 3, 2014, the NRC published in the **Federal Register** a request for comment on its intent to prepare an environmental impact statement and conduct a scoping process (79 FR 65256). By letter dated November 25, 2015, the licensee withdrew its license amendment application (ADAMS Accession No. ML16005A100). The licensee will continue activities at the Jefferson Proving Ground in compliance with Source Materials License SUB–1435.

Dated at Rockville, Maryland, this 9th day of March 2016.

For the Nuclear Regulatory Commission.

Michael A. Norato,

Acting Deputy Director, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2016–06283 Filed 3–18–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–012 and 52–013; NRC–2008–0091]

Nuclear Innovation North America LLC; South Texas Project, Units 3 and 4

AGENCY: Nuclear Regulatory Commission.

ACTION: Combined licenses and record of decision; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued combined license numbers NPF–097 and NPF–098 to Nuclear Innovation North America LLC (NINA), STP Nuclear Operating Company, NINA Texas 3 LLC, NINA Texas 4 LLC, and the City of San Antonio, Texas, acting by and through the City Public Service Board (collectively, the Licensees) for South Texas Project, Units 3 and 4 (STP Units 3 and 4). In addition, the NRC has prepared a Summary Record of Decision (ROD) that supports the NRC's decision to issue combined license numbers NPF–097 and NPF–098.

DATES: Combined license numbers NPF–097 and NPF–098 became effective on February 12, 2016.

ADDRESSES: Please refer to Docket ID NRC–2008–0091 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0091. 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.* For the convenience of the reader, the ADAMS accession numbers are provided in a table in the ''Availability of Documents'' section of 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: Tom Tai, telephone: 301–415–8484, email: *Tom.Tai@nrc.gov* regarding safety matters; or Patricia Vokoun, telephone: 301–415–3470, email: *Patricia.Vokoun@nrc.gov* regarding environmental matters. Both are staff of the Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Introduction

Under section 2.106 of title 10 of the *Code of Federal Regulations* (10 CFR), the NRC is providing notice of the issuance of combined license numbers NPF–097 and NPF–098 to the Licensees, and under 10 CFR 50.102(c), the NRC is providing notice of the Record of Decision (ROD). With respect to the application for combined licenses filed by NINA, the NRC finds that the applicable standards and requirements of the Atomic Energy Act of 1954, as amended (AEA), and the Commission's regulations have been met. The NRC finds that any required notifications to other agencies or bodies have been duly made and that there is reasonable assurance that the facilities will be constructed and will operate in conformity with the license, the provisions of the AEA, and the Commission's regulations. Furthermore, the NRC finds that the Licensees are technically and financially qualified to engage in the activities authorized, and that issuance of the licenses will not be inimical to the common defense and security or to the health and safety of the public. Finally, the NRC finds that the findings required by subpart A of 10 CFR part 51 have been made.

Accordingly, the combined licenses were issued on February 12, 2016, and became effective immediately.

II. Further Information

The NRC has prepared a Final Safety Evaluation Report (FSER) and Final Environmental Impact Statement (FEIS) that document the information reviewed and the NRC's conclusion. The Commission has also issued its Memorandum and Order documenting its final decision on the uncontested hearing held on November 19, 2015, which serves as the ROD in this proceeding. The NRC also prepared a document summarizing the ROD to accompany its actions on the combined license application; this Summary ROD incorporates by reference materials contained in the FEIS. The FSER, FEIS, Summary ROD, and accompanying documentation included in the combined license package, as well as the Commission's hearing decision and ROD, are available online in the ADAMS Public Document collection at *http://www.nrc.gov/reading-rm/adams.html.*

The ADAMS accession numbers for the documents related to this notice are listed below.

III. Availability of Documents

The documents identified in the following table are available to interested persons through the ADAMS Public Documents collection. A copy of the combined license application is also available for public inspection at the NRC's PDR and at *http://www.nrc.gov/reactors/new-reactors/col.html.*

Document	Adams Accession No.
Final Safety Evaluation Report for Combined Licenses for STP Units 3 and 4	ML15232A128.
Final Environmental Impact Statement for Combined Licenses for STP Units 3 and 4	ML11049A000 (Volume 1), ML11049A001 (Volume 2).
Commission's Memorandum and Order on the uncontested hearing (Record of Decision)	ML16040A174.
Summary Record of Decision	ML16028A473.
Letter transmitting Combined Licenses Nos. NPF–097 and NPF–098 and accompanying documentation	ML16033A010.
Combined License Nos. NPF–097 and NPF–098	ML16033A020 (Unit 3), ML16033A047 (Unit 4).
South Texas Project, Units 3 and 4, Combined License Application, Revision 12, April 21, 2015.	ML15124A421.

Dated at Rockville, Maryland, this 25th day of February 2016.

For the Nuclear Regulatory Commission.

Frank Akstulewicz,

Director, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2016–06204 Filed 3–18–16; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Addition of Competitive International Merchandise Return Service Agreements With Foreign Postal Operators 2 to Competitive Product List

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service hereby provides notice that it has filed a request with the Postal Regulatory Commission to add Competitive International Merchandise Return Service Agreements with Foreign Postal Operators 2 to the competitive product list.

DATES: *Effective date:* March 21, 2016.

FOR FURTHER INFORMATION CONTACT: Kyle Coppin, 202–268–2368.

SUPPLEMENTARY INFORMATION: On March 8, 2016, the United States Postal Service® filed with the Postal Regulatory Commission a *Request of the United States Postal Service to add Competitive International Merchandise Return Service Agreements with Foreign Postal Operators 2 to its Competitive Product List,* pursuant to 39 U.S.C. 3642. Documents pertinent to this request are available at *http://www.prc.gov,* Docket No. MC2016–94 and Docket No. CP2016–119.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–06232 Filed 3–18–16; 8:45 am]

BILLING CODE 7710–12–P

PRESIDIO TRUST

Notice of Public Meeting of Presidio Institute Advisory Council

AGENCY: The Presidio Trust.

ACTION: Notice of public meeting of Presidio Institute Advisory Council.

SUMMARY: Pursuant to the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given that a public meeting of the Presidio Institute Advisory Council (Council) will be held from 10 a.m. to 11:30 a.m. on Monday, April 11, 2016. The meeting is open to the public, and oral public comment will be received at the meeting. The Council was formed to advise the Executive Director of the Presidio Trust (Trust) on matters pertaining to the rehabilitation and reuse of Fort Winfield Scott as a new national center focused on service and leadership development.

SUPPLEMENTARY INFORMATION: The Trust's Executive Director, in consultation with the Chair of the Board of Directors, has determined that the Council is in the public interest and supports the Trust in performing its duties and responsibilities under the Presidio Trust Act, 16 U.S.C. 460bb appendix.

The Council advises on the establishment of a new national center (Presidio Institute) focused on service and leadership development, with specific emphasis on: (a) Assessing the role and key opportunities of a national center dedicated to service and leadership at Fort Scott in the Presidio of San Francisco; (b) providing recommendations related to the Presidio Institute's programmatic goals, target audiences, content, implementation and evaluation; (c) providing guidance on a phased development approach that leverages a combination of funding sources including philanthropy; and (d) making recommendations on how to structure the Presidio Institute's business model to best achieve the Presidio Institute's mission and ensure long-term financial self-sufficiency.

Meeting Agenda: This meeting of the Council will include an update on Presidio Institute programs. The period from 11 a.m. to 11:30 a.m. will be reserved for public comments.

Public Comment: Individuals who would like to offer comments are invited to sign-up at the meeting and speaking times will be assigned on a first-come, first-served basis. Written comments may be submitted on cards that will be provided at the meeting, via mail to Amanda Marconi, Presidio Institute, 1201 Ralston Avenue, San Francisco, CA 94129–0052, or via email to *amarconi@presidiotrust.gov.* If individuals submitting written comments request that their address or other contact information be withheld from public disclosure, it will be honored to the extent allowable by law. Such requests must be stated prominently at the beginning of the comments. The Trust will make available for public inspection all submissions from organizations or businesses and from persons identifying themselves as representatives or officials of organizations and businesses.

Time: The meeting will be held from 10 a.m. to 11:30 a.m. on Monday, April 11, 2016.

Location: The meeting will be held at the Log Cabin, 1299 Storey Avenue, The Presidio of San Francisco, San Francisco, CA 94129.

FOR FURTHER INFORMATION CONTACT: Additional information is available online at *http://www.presidio.gov/institute/about/Pages/advisory-council.aspx.*

Dated: March 14, 2016.

Andrea M. Andersen,

Acting General Counsel.

[FR Doc. 2016–06268 Filed 3–18–16; 8:45 am]

BILLING CODE 4310–4R–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77370; File No. SR–NYSEMKT–2016–35]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Change Modifying the NYSE Amex Options Fee Schedule

March 15, 2016.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 3, 2016, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify the NYSE Amex Options Fee Schedule (''Fee Schedule''). The Exchange proposes to implement the fee change effective March 3, 2016. 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to add the definitions of ''Appointed MM'' and ''Appointed OFP'' to the Exchange's Fee Schedule, effective March 3, 2016, which would increase opportunities for firms to qualify for the Amex Customer Engagement (''ACE'') program (the ''ACE Program'' or ''Program'').

Specifically, the Exchange proposes to allow NYSE Amex Options Market Makers to designate an Order Flow Provider (''OFP'') as its ''Appointed OFP'' and for an OFP to designate an NYSE Amex Options Market Maker as its ''Appointed MM,'' for purposes of sections I.D. and I.E. of the Fee Schedule.[3] ATP Holders would effectuate the designation by each sending an email to the Exchange.[4] The Exchange would view corresponding emails as acceptance of such an appointment and would only recognize one such designation for each party once every 12-months, which designation would remain in effect unless or until the Exchange receives an email from either party indicating that the appointment has been terminated.[5] The proposed new concepts would be applicable to, and included in, sections 1.D. and 1.E. of the Fee Schedule, as described below, and are designed to increase opportunities for firms to qualify for the ACE Program.[6]

Last year, the Exchange instituted a Prepayment Program that allows NYSE Amex Options Market Makers the option to commit to either a 1-year or 3-year term (the ''1 Year Prepayment Program'' or ''3 Year Prepayment Program,'' respectively).[7] In connection with these Prepayment Programs, the Exchange added the ACE Program (described below), which enables an NYSE Amex Options Market Maker (''Market Maker'') that elects to participate in either of the Prepayment Programs to qualify its Affiliated OFP to be eligible to receive the enhanced credit(s) under the ACE Program. Currently, an OFP is only eligible for the enhanced credits of section 1.E. by virtue of its affiliation (*i.e.,* minimum of 70% common ownership) with a Market Maker in one of the Prepayment Programs.

Section I.E. of the Fee Schedule describes the ACE Program,[8] which features five tiers expressed as a percentage of total industry Customer equity and ETF option average daily volume (''ADV'').[9] OFPs receive per contract credits solely for Electronic Customer volume that the OFP, as agent, submits to the Exchange.[10] The ACE Program offers two methods for OFPs to receive credits:

1. By calculating, on a monthly basis, the average daily Customer contract volume an OFP executes Electronically on the Exchange as a percentage of total average daily industry Customer equity and ETF options volume; [11] or

2. By calculating, on a monthly basis, the average daily contract volume an OFP executes Electronically in all participant types (*i.e.,* Customer, Firm, Broker-Dealer, NYSE Amex Options Market Maker, Non-NYSE Amex Options Market Maker, and Professional Customer) on the Exchange, as a percentage of total average daily industry Customer equity and ETF option volume,[12] with the further requirement that a specified percentage of the minimum volume required to qualify for the Tier must be Customer volume.

Upon reaching a higher tier, an Affiliated OFP receives for all eligible Customer volume the per contract enhanced credit associated with the highest tier achieved, retroactive to the first contract traded each month, regardless of which of the two calculation methods the OFP qualifies under.[13]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* proposed Fee Schedule, Key Terms and Definitions.

[4] *See* proposed section 1.E. to Fee Schedule, Designating an Appointed OFP/Appointed MM. ATP Holders should direct their emails designating Appointed OFP/Appointed MMs to *optionsbilling@nyse.com. See id.*

[5] *See id.* The Commission notes that the proposed rule text specifies that the Exchange will recognize one such designation for each party, and that a party may make a designation not more than once every 12-months, which designation shall remain in effect unless or until the Exchange receives an email from either party indicating that the appointment has been terminated.

[6] *See* proposed Fee Schedule, sections 1.D. and 1.E.

[7] *See* Securities Exchange Act Release No. 74086 (January 16, 2015), 80 FR 3701 (January 16, 2015) [sic] (SR–NYSEMKT–2015–04). *See also* Fee Schedule, section I.D., Prepayment Program.

[8] *See* Fee Schedule, section I.E, ACE Program.

[9] In calculating ADV, the Exchange utilizes monthly reports published by the OCC for equity options and ETF options that show cleared volume by account type. *See* OCC Monthly Statistics Reports, *available here, http://www.theocc.com/webapps/monthly-volume-reports* (including for equity options and ETF options volume, subtotaled by exchange, along with OCC total industry volume). The Exchange calculates the total OCC volume for equity and ETF options that clear in the Customer account type and divide this total by the number of trading days for that month (*i.e.,* any day the Exchange is open for business). For example, in a month having 21 trading days where there were 252,000,000 equity option and ETF option contracts that cleared in the Customer account type, the calculated ADV would be 12,000,000 (252,000,000/21 = 12,000,000).

[10] Electronic Customer volume is volume executed electronically through the Exchange System, on behalf of an individual or organization that is not a Broker-Dealer and who does not meet the definition of a Professional Customer.

[11] *See supra* n. 9.

[12] *Id.*

[13] In the event that an OFP is eligible for credits under both calculation methods, the OFP would benefit from whichever criterion results in the

The Exchange proposes to modify sections 1.D. (Prepayment Programs) and 1.E (ACE Program) to include the newly introduced concepts of an Appointed OFP and Appointed MM.[14] The proposal would be available to all Market Makers and OFPs. Specifically, the proposed changes would enable any Market Maker—not just those participating in a Prepayment Program—to qualify its Appointed OFP for credits under the ACE Program. In this regard, the proposed change would enable a Market Maker without an Affiliated OFP—or with an Affiliated OFP that doesn't meet the volume requirements for credits under the Program—to enter a relationship with an Appointed OFP. Similarly, as proposed, an OFP, by virtue of designating an Appointed MM, would be able to aggregate its own Customer volume with the activity of its Appointed MM, which would enhance the OFP's potential to qualify for additional credits in ACE.[15] Thus, the proposed changes would enable firms that are not currently eligible for the ACE Program to avail themselves of the Program as well as to assist firms that are currently eligible for the Program to potentially achieve a higher ACE tier, thus qualifying to higher credits. The Exchange believes these proposed changes would incent firms to direct their order flow to the Exchange to the benefit of all market participants. Further, the Exchange believes that the proposed changes would encourage market making firms to participate in one of the Exchange's Prepayment Programs, which would increase capital commitment and liquidity on the Exchange to the benefit of all market participants.

As proposed, the Exchange would only process one designation of an Appointed OFP and Appointed MM per year, which designation would remain in effect unless or until the parties informed the Exchange its termination.[16] The Exchange believes that this requirement would impose a measure of exclusivity and would enable both parties to rely upon each other's, and potentially increase, transaction volumes executed on the Exchange, which is beneficial to all Exchange participants.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[17] in general, and furthers the objectives of sections 6(b)(4) and (5) of the Act,[18] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The proposal is reasonable, equitable and not unfairly discriminatory for the following reasons. First, the proposal would be available to all Market Makers and OFPs and the decision to be designated as an ''Appointed OFP'' or ''Appointed MM'' is completely voluntary and ATP Holders may elect to accept this appointment or not. In addition, the proposed changes would enable firms that are not currently eligible for the ACE Program to avail themselves of the Program as well as to assist firms that are currently eligible for the Program to potentially achieve a higher ACE tier, thus qualifying to higher credits. The Exchange believes these proposed changes would incent firms to direct their order flow to the Exchange. Specifically, the proposed changes would enable any Market Maker—not just those participating in a Prepayment Program—to qualify its Appointed OFP for credits under the ACE Program. Moreover, the proposed change would allow any OFP, by virtue of designating an Appointed MM, to aggregate its own Customer volume with the activity of its Appointed MM, which would enhance the OFP's potential to qualify for additional credits under the ACE Program. The Exchange believes these proposed changes would incent Appointed OFPs and OFPs with an Appointed MM to direct their order flow to the Exchange, which increase in orders routed to the Exchange would benefit all market participants by expanding liquidity, providing more trading opportunities and tighter spreads, including those market participants that opt not to become an Appointed OFP and therefore may be ineligible to earn the credits under the ACE Program.

Similarly, the proposal, which would permit the opportunity for both parties to rely upon each other's, and potentially increase, transaction volumes, are reasonable, equitable and not unfairly discriminatory because they may encourage market making firms to participate in one of the Exchange's Prepayment Programs, which potential increase in order flow, capital commitment and resulting liquidity on the Exchange would benefit all market participants by expanding liquidity, providing more trading opportunities and tighter spreads.

The proposal is also reasonable, equitable and not unfairly discriminatory because the Exchange would only process one designation of an Appointed OFP and Appointed MM per year, which requirement would impose a measure of exclusivity while allowing both parties to rely upon each other's, and potentially increase, transaction volumes executed on the Exchange to the benefit of all Exchange participants.

Finally, the Exchange believes the proposal is reasonable, equitable and not unfairly discriminatory as it may encourage an increase in orders routed to the Exchange, which would expand liquidity and provide more trading opportunities and tighter spreads to the benefit of all market participants, even to those market participants that are either currently affiliated by virtue of their common ownership or that opt not to affiliate under this proposal (the latter group including market participants that are ineligible to earn the credits under the ACE Program).

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with section 6(b)(8) of the Act,[19] 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 changes are pro-competitive as they would increase opportunities for firms to qualify for the ACE Program, which may increase intermarket and intramarket competition by incenting participants to direct their orders to the Exchange thereby increasing the volume of contracts traded on the Exchange and enhancing the quality of quoting. Enhanced market quality and increased transaction volume that results from the anticipated increase in order flow directed to the Exchange would benefit

highest per contract credit for all the OFP's eligible ADV. In calculating an OFP's Electronic volume, certain volumes are excluded (*e.g.,* QCC trades). *See* Fee Schedule, section I.E.

[14] The Exchange also proposes to make the non-substantive change of adding a period following reference to section I.C. *See* proposed Fee Schedule, section I.D. The Exchange also proposes to remove an errant period from item 2 in section 1.D. of the Fee Schedule. *See id.*

[15] An OFP that has both an Appointed MM and an Affiliated NYSE Amex Market Maker may only aggregate volumes with one of these two, not both. Specifically, the Exchange proposes to specify in section I.E. that ''[i]n calculating an OFP's Electronic volume, the Exchange will include the activity of either (i) Affiliates of the OFP, such as when an OFP has an Affiliated NYSE Amex Options Market Making firm, or (ii) an Appointed MM of such OFP.''

[16] *See supra* n. 5.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(4) and (5).

[19] 15 U.S.C. 78f(b)(8).

all market participants and improve competition on the Exchange.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to section 19(b)(3)(A) [20] of the Act and subparagraph (f)(2) of Rule 19b–4 [21] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under section 19(b)(2)(B) [22] 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–NYSEMKT–2016–35 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–NYSEMKT–2016–35. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2016–35, and should be submitted on or before April 11, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–06228 Filed 3–18–16; 8:45 am]

BILLING CODE 8011–01–P

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(2).

[22] 15 U.S.C. 78s(b)(2)(B).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: US Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Order Granting Conditional Exemptions Under the Securities Exchange Act of 1934 in Connection with Portfolio Margining of Swaps and Security-Based Swaps; SEC File No. S7–13–12, OMB Control No. 3235–0698.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the existing collection of information provided for in the Order Granting Conditional Exemptions Under the Securities Exchange Act of 1934 (''Exchange Act'') in Connection with Portfolio Margining of Swaps and Security-Based Swaps, Exchange Act Release No. 68433 (Dec. 14, 2012), 77 FR 75211 (Dec. 19, 2012) (''Order'').

On December 14, 2012, the Commission found it necessary or appropriate in the public interest and consistent with the protection of investors to grant the conditional exemptions discussed in the Order. Among other things, the Order requires dually-registered broker-dealer and futures commission merchants (''BD/FCMs'') that elect to offer a program to commingle and portfolio margin customer positions in credit default swaps (''CDS'') in customer accounts maintained in accordance with Section 4d(f) of the Commodity Exchange Act (''CEA'') and rules thereunder, to obtain certain agreements and opinions from its customers regarding the applicable regulatory regime, and to make certain disclosures to its customers before receiving any money, securities, or property of a customer to margin, guarantee, or secure positions consisting of cleared CDS, which include both swaps and security-based swaps, under a program to commingle and portfolio margin CDS. The Order also requires BD/FCMs that elect to offer a program to commingle and portfolio margin CDS positions in customer accounts maintained in accordance with Section 4d(f) of the CEA and rules thereunder, to maintain minimum margin levels using a margin methodology approved by the Commission or the Commission staff.

When it adopted the Order, the Commission discussed the burden hours and costs associated with complying with certain provisions of the Order that contain ''collection of information requirements'' within the meaning of the PRA.[1] The collection of information requirements are designed, among other things, to provide appropriate

[1] *See* Order, 77 FR at 75221–23.

agreements, disclosures, and opinions to BD/FCM customers to clarify key aspects of the regulatory framework that will govern their participation in a program to commingle and portfolio margin CDS positions and to ensure that appropriate levels of margin are collected. Because the Order is still in effect, the Commission believes it is prudent to extend this collection of information.

The Commission estimates that 45 firms may seek to avail themselves of the conditional exemptive relief provided by the Order and therefore would be subject to the information collection.[2] The Commission estimates that each of the 45 firms that may seek to avail themselves of the conditional exemptive relief provided by the Order would spend a total of 3,430 burden hours to comply with the existing collection of information, calculated as follows: (20 hours to develop a subordination agreement for each non-affiliate cleared credit default swap customers in accordance with paragraph IV(b)(1)(ii) of the Order) × (109 non-affiliate credit default swap customers) [3] + ((20 hours to develop a subordination agreement for each affiliate cleared credit default swap customers in accordance with paragraph IV(b)(2)(ii) of the Order) + (2 hours developing and reviewing the opinion required by paragraph IV(b)(2)(iii) of the Order)) × (11 affiliate credit default swap customers) + (1,000 hours to seek the Commission's approval of margin methodologies under paragraph IV(b)(3) of the Order) + (8 hours to disclose information to customers under paragraph IV(b)(6) of the Order) = 3,430 burden hours, or approximately 154,350 burden hours in the aggregate, calculated as follows: (3,430 burden hours per firm) × (45 firms) = 154,350 burden hours. Amortized over three years, the annualized burden hours would be 1,143 hours per firm, or a total of 51,450 for all 45 firms.

The Commission further estimates that each respondent will incur a one-time cost of $8,000 in outside legal cost expenses per firm, calculated as follows: (200 hours to obtain opinions of counsel from affiliate cleared credit default swap customers under paragraph IV(b)(2)(iii) of the Order) × ($400 per hour for outside legal counsel) = $8,000, for an aggregate burden of $360,000, calculated as follows: ($8,000 in external legal costs per firm) × (45 firms) = $360,000. Amortized over three years, the annualized capital external cost would be $2,667 per firm, or a total of $120,000 for all 45 firms.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following Web site: *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: March 15, 2016.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–06230 Filed 3–18–16; 8:45 am]

BILLING CODE 8011–01–P

[2] The Commission bases this estimate on the total number of entities that are dually registered as broker-dealers and futures commission merchants. *See* Financial Data for FCMs as of July 31, 2015, Commodity Futures Trading Commission, available at *http://www.cftc.gov/MarketReports/FinancialDataforFCMs/index.htm.*

[3] Based on information that the Commission receives on a monthly basis, as well as current projections regarding the estimated increase in the number of customers per respondent, the Commission anticipates an average number of credit default swap customers to be 120 per respondent, 109 of which would be non-affiliates and 11 of which would be affiliates. The Commission notes that these estimates are based on current data and the current regulatory framework.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77371; File No. SR–NYSEMKT–2016–33]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Amend Its Price List Effective March 1, 2016

March 15, 2016.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 1, 2016, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, 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.

[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 amend its Price List to exclude from its average daily volume and certain other calculations any trading day on which the Exchange is not open for the entire trading day and/or a disruption affects an Exchange system that lasts for more than 60 minutes during regular trading hours. The Exchange proposes to implement the fee change effective March 1, 2016. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, on the Commission's Web site at *http://www.sec.gov,* and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to exclude from its average daily volume (''ADV'') and certain other calculations any trading day on which the Exchange is not open for the entire trading day and/or a disruption affects an Exchange system that lasts for more than 60 minutes during regular trading hours. The Exchange proposes to implement the fee change effective March 1, 2016.

As provided in the Exchange's Price List, many of the Exchange's transaction fees and credits are based on trading, quoting and liquidity thresholds that member organizations, including

Designated Market Makers (''DMMs''), Supplemental Liquidity Providers (''SLPs''), and Retail Liquidity Providers (''RLPs''), must satisfy in order to qualify for the particular rates. The Exchange believes that trading suspensions or disruptions can prevent member organizations, including DMMs, SLPs and RLPs, from engaging in normal trading, quoting and liquidity in their assigned securities, leading to decreased quoting and trading volume compared to ADV. Accordingly, for purposes of determining transaction fees and credits for these market participants based on quoting and/or liquidity levels, ADV, and consolidated ADV (''CADV''), the Exchange proposes to add text to current footnote 1 to the Price List that would permit the Exchange to exclude any trading day on which (1) the Exchange is not open for the entire trading day and/or (2) a disruption affects an Exchange system that lasts for more than 60 minutes during regular trading hours. The Exchange's proposal is consistent with the rules of its options trading facility [4] and its affiliate NYSE Arca, Inc.[5]

The proposed change would allow the Exchange to exclude days where the Exchange declares a trading halt in all securities or honors a market-wide trading halt declared by another market. The Exchange's proposal would be similar to the current provision in the Price List whereby, for purposes of DMM liquidity credits based on the CADV in all Exchange-listed stocks in a current month, ADV calculations can exclude early closing days.[6] Generally, this applies to certain days before or after a holiday observed by the Exchange.[7] The Exchange's proposal is consistent with the rules of other self-regulatory organizations.[8]

The Exchange believes that artificially low volumes of trading on days when the Exchange is not open for the entire trading day reduces the average daily activity of member organizations both daily and monthly. Given the decreased trading volumes, the numerator for the monthly calculation (*e.g.,* trading volume) would be correspondingly lower, but the denominator for the threshold calculations (*e.g.,* the number of trading days) would not necessarily be decreased, and could result in an unintended increase in the cost of trading on the Exchange, a result that is unintended and undesirable to the Exchange and its member organizations. The Exchange believes that the authority to exclude days when the Exchange is not open for the entire trading day would provide member organizations with greater certainty as to their monthly costs and diminish the likelihood of an effective increase in the cost of trading.[9]

Similarly, the Exchange proposes to modify its Price List to permit the Exchange to exclude from the above calculations shares traded on a trading day where a disruption affects an Exchange system that lasts for more than 60 minutes during regular trading hours even if such disruption would not be categorized as a complete outage of the Exchange's system. Such a disruption may occur where a certain securities traded on the Exchange are unavailable for trading due to an Exchange system issue or where, while the Exchange may be able to perform certain functions with respect to accepting and processing orders, the Exchange may be experiencing a failure to another significant process, such as routing to other market centers, that would lead member organizations that rely on such process to avoid utilizing the Exchange until the Exchange's entire system was operational. Once again, the Exchange's proposal is consistent with the rules of other self-regulatory organizations.[10]

The Exchange is not proposing any changes to the level of rebates currently being provided on the Exchange, or to the thresholds required to achieve each rebate tier.

The proposed change is also not otherwise intended to address any other issues, and the Exchange is not aware of any problems that member organizations would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[12] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that it is reasonable to permit the Exchange to eliminate from the calculation days on which the market is not open the entire trading day because it preserves the Exchange's intent behind adopting volume-based pricing. Similarly, the Exchange believes that its proposal is reasonable because it will help provide member organizations with a greater level of certainty as to their level of rebates and costs for trading in any month where the Exchange experiences such a system disruption on one or more trading days. The Exchange is not proposing to amend the thresholds member organizations must achieve to become eligible for, or the dollar value associated with, the tiered rebates or fees. By eliminating the inclusion of a trading day on which a system disruption occurs, the Exchange would almost certainly be excluding a day that would otherwise lower members' and member organizations' trading volume, thereby making it more likely for member organizations to meet the minimum or higher tier thresholds and thus incentivizing member organizations to increase their participation on the Exchange in order to meet the next highest tier.

The Exchange further believes that the proposal is reasonable because the proposed exclusion seeks to avoid penalizing member organizations that might otherwise qualify for certain tiered pricing but that, because of a significant Exchange system problem,

[4] See NYSE Amex Options Fee Schedule (''The Exchange may exclude from its monthly calculations of contract volume any day that (1) the Exchange is not open for the entire trading day and/or (2) a disruption affects an Exchange system that lasts for more than 60 minutes during regular trading hours'').

[5] See NYSE Arca Options Fees and Charges (''The Exchange may exclude from the calculation of ADV contracts traded any day that (1) the Exchange is not open for the entire trading day and/or (2) a disruption affects an Exchange system that lasts for more than 60 minutes during regular trading hours (''Exchange System Disruption'').

[6] See footnote 4 in the Price List.

[7] For example, the Exchange is closed on Thanksgiving Day and closes early on the Friday immediately following Thanksgiving Day (*e.g.,* Friday, November 25, 2016).

[8] *See* notes 6–7, *supra; see also* NASDAQ Stock Market LLC Rule 7018(j) (''For purposes of determining average daily volume and total consolidated volume under this rule, any day that the market is not open for the entire trading day will be excluded from such calculation.''); International Securities Exchange, LLC Fee Schedule (''For purposes of determining Priority Customer ADV, any day that the regular order book is not open for the entire trading day or the Exchange instructs members in writing to route their orders to other markets may be excluded from such calculation; provided that the Exchange will only remove the day for members that would have a lower ADV with the day included.'').

[9] *See, e.g.,* Securities Exchange Act Release No. 70657 (October 10, 2013), 78 FR 62899 (October 22, 2103) (SR–ISE–2013–51).

[10] *See* notes 6–7, *supra; see also* BATS BZX Exchange Fee Schedule (''The Exchange excludes from its calculation of ADAV and ADV shares added or removed on any day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during regular trading hours (''Exchange System Disruption''), on any day with a scheduled early market close and on the last Friday in June (the ''Russell Reconstitution Day'').

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4) and (5).

would not participate to the extent that they might have otherwise participated. The Exchange believes that certain systems disruptions could preclude some member organizations from submitting orders to the Exchange even if such issue is not actually a complete systems outage.

Finally, the Exchange believes that the proposal is equitable and not unfairly discriminatory because the methodology for the monthly calculations would apply equally to all member organizations and to all volume tiers. The Exchange notes that, although unlikely, there is some possibility that a certain small proportion of member organizations may have a higher ADV as a percentage of average daily volume with their activity included from days where the Exchange experiences a system disruption. The Exchange believes that the proposal would still be equitable and not unfairly discriminatory given that the impacted universe is potentially quite small and that the proposal would benefit the overwhelming majority of market participants and would make the overall cost of trading on the Exchange more predictable for the membership as a whole.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[13] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that, with respect to monthly calculations for rebates, there are very few instances where the exclusion would be invoked, and if invoked, would have little or no impact on trading decisions or execution quality. On the contrary, the Exchange believes that the proposal fosters competition by avoiding a penalty to member organizations for days when trading on the Exchange is disrupted for a significant portion of the day and would result in lower total costs to end users, a positive outcome of competitive markets. Further, other options exchanges have adopted rules that are substantially similar to the change in ADV calculation being proposed by the Exchange.[14]

[13] 15 U.S.C. 78f(b)(8).

[14] See note 5, supra.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[15] of the Act and subparagraph (f)(2) of Rule 19b–4[16] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[17] 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–NYSEMKT–2016–33 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NYSEMKT–2016–33. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2016–33 and should be submitted on or before April 11, 2016.

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(2).

[17] 15 U.S.C. 78s(b)(2)(B).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–06229 Filed 3–18–16; 8:45 am]

BILLING CODE 8011–01–P

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77374; File No. SR–NYSEARCA–2016–42]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Equities Rule 7.33 To Conform the Exchange's Rules to Industry-Wide Standards for Recording the Capacity in Which an ETP Holder Executes a Transaction

March 15, 2016.

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 March 4, 2016, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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 NYSE Arca Equities Rule 7.33 to conform the Exchange's rules to industry-wide standards for recording the capacity in which an ETP Holders [sic] executes a transaction. 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

NYSE Arca Equities Rule 7.33 (''Rule 7.33'') currently provides that ETP Holders may enter proprietary orders and agency orders for the account of a customer into the NYSE Arca Marketplace [4] and that proprietary orders are subject to the same display and execution processes as agency orders. Rule 7.33 further provides that an ETP Holder entering a proprietary order shall mark the order with the appropriate designator to identify the order as proprietary.

As proposed, Rule 7.33 would be amended to add a clause specifying that ETP Holders must input accurate information into the NYSE Arca Marketplace, including, but not limited to, identifying the capacity in which the ETP Holder entered each order, as follows: principal, agency, or riskless principal.[5] The Exchange would delete the current clause relating to the entry of proprietary orders and agency orders for the account of a customer and the clause providing that ETP Holders entering proprietary orders mark the order with the appropriate designator to identify the order as proprietary as redundant. The Exchange proposes to retain the clause providing that proprietary orders would be subject to the same display and execution processes as agency orders.

By requiring ETP Holders to identify the capacity in which they enter an order, the Exchange would be harmonizing its order entry requirements with those of other national securities exchanges.[6] The proposed changes would not alter an ETP Holder's obligation to meet order audit trail system requirements, as set forth in the Rule 7400 Series (Order Audit Trail System).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, because it is designed to promote just and equitable principles of trade and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and national market system because it would provide greater harmonization between order entry on the Exchange and other marketplaces, resulting in greater uniformity and more efficient order entry to enable ETP Holders to use the same order-marking conventions across all equities markets. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competitive issues, but rather it is designed to provide greater harmonization between the Exchange and other markets in the marking of orders, resulting in more uniform and efficient order entry.

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 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 [9] and Rule 19b–4(f)(6) thereunder.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is 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 change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and

[4] The term ''NYSE Arca Marketplace'' is defined in NYSE Arca Equities Rule 1.1.

[5] In general, the term ''capacity'' refers to whether a broker-dealer acts as agent, *i.e.,* directly on behalf of a customer, or whether the broker-dealer acts as principal, *i.e.,* for its own account, in a transaction. A riskless principal transaction is one where a broker-dealer receives a customer order and then immediately executes an identical order in the marketplace, while taking on the role of principal, in order to fill the customer order pursuant to NYSE Arca Equities Rule 5320.

[6] *See, e.g.,* BATS Exchange, Inc. (''BATS'') Rule 11.21; BATS Y-Exchange, Inc. (''BATS–Y'') Rule 11.21; EDGA Exchange, Inc. (''EDGA'') Rule 11.5; EDGX Exchange, Inc. Rule 11.5; and NASDAQ Stock Market LLC (''NASDAQ'') Rule 4611(a)(6). The Exchange's affiliates New York Stock Exchange LLC (''NYSE'') and NYSE MKT LL [sic] (''NYSE MKT'') impose the same marking requirements on clearing member organizations. *See* NYSE Rule 132.30(9) & NYSE MKT Rule 132.30(9).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 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.

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–2016–42 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–2016–42. 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–NYSEARCA–2016–42 and should be submitted on or before April 11, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–06239 Filed 3–18–16; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Broke Out, Inc.; Order of Suspension of Trading

March 17, 2016.

It appears to the Securities and Exchange Commission that the public interest and the protection of investors require a suspension of trading in the securities of Broke Out, Inc. (''BRKO'') because of concerns regarding the accuracy and adequacy of information in the marketplace and potentially manipulative transactions in BRKO common stock. BRKO is a Nevada corporation with a business address in Frankfurt, Germany and its common stock is quoted on the OTC Link (previously ''Pink Sheets'') operated by OTC Markets Group, Inc. (''OTC Link) under the ticker symbol BRKO.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EDT on March 17, 2016 through 11:59 p.m. EDT on March 31, 2016.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2016–06365 Filed 3–17–16; 11:15 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14667 and #14668]

Louisiana Disaster #LA–00062

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Louisiana (FEMA–4263–DR), dated 03/13/2016.

Incident: Severe Storms and Flooding.

Incident Period: 03/08/2016 and continuing.

Effective Date: 03/13/2016.

Physical Loan Application Deadline Date: 05/12/2016.

Economic Injury (EIDL) Loan Application Deadline Date: 12/13/2016.

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.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 03/13/2016, 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 (Physical Damage and Economic Injury Loans): Bossier, Claiborne, Grant, Morehouse, Ouachita, Richland, Webster.

Contiguous Counties (Economic Injury Loans Only):

Louisiana: Bienville, Caddo, Caldwell, East Carroll, Franklin, Jackson, La Salle, Lincoln, Madison, Natchitoches, Rapides, Red River, Union, West Carroll, Winn.

Arkansas: Ashley, Chicot, Columbia, Lafayette, Miller, Union.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.625
Homeowners Without Credit Available Elsewhere	1.813
Businesses With Credit Available Elsewhere	6.250
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 146676 and for economic injury is 146680.

(Catalog of Federal Domestic Assistance Numbers 59008)

Lisa Lopez-Suarez,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2016–06202 Filed 3–18–16; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 9489]

Certification Pursuant to the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2016

By virtue of the authority vested in me as the Deputy Secretary of State by Department of State Delegation of Authority 245–1, and pursuant to Section 7045(a)(3)(A) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2016 (Div. K, Pub. L. 114–113), I hereby certify that the central government of El Salvador is taking effective steps to:

- Inform its citizens of the dangers of the journey to the southwest border of the United States;
- Combat human smuggling and trafficking;
- Improve border security; and;
- Cooperate with United States government agencies and other governments in the region to facilitate the return, repatriation, and reintegration of illegal migrants arriving at the southwest border of the United States who do not qualify as refugees, consistent with international law.

This certification shall be published in the **Federal Register** and, along with the accompanying Memorandum of Justification, shall be reported to Congress.

Dated: March 10, 2016.

Antony J. Blinken,

Deputy Secretary of State.

[FR Doc. 2016–06313 Filed 3–18–16; 8:45 am]

BILLING CODE 4710–29–P

DEPARTMENT OF STATE

[Public Notice: 9491]

Certification Pursuant to the Department of State, Foreign Operations, and Related Programs Appropriations Act

By virtue of the authority vested in me as the Deputy Secretary of State by Department of State Delegation of Authority 245–1, and pursuant to Section 7045(a)(3)(A) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2016 (Div. K, Pub. L. 114–113), I hereby certify that the central government of Honduras is taking effective steps to:

- Inform its citizens of the dangers of the journey to the southwest border of the United States;
- Combat human smuggling and trafficking;
- Improve border security; and;
- Cooperate with United States government agencies and other governments in the region to facilitate the return, repatriation, and reintegration of illegal migrants arriving at the southwest border of the United States who do not qualify as refugees, consistent with international law.

This certification shall be published in the **Federal Register** and, along with the accompanying Memorandum of Justification, shall be reported to Congress.

Dated: March 10, 2016.

Antony J. Blinken,

Deputy Secretary of State.

[FR Doc. 2016–06309 Filed 3–18–16; 8:45 am]

BILLING CODE 4710–29–P

DEPARTMENT OF STATE

[Public Notice: 9490]

Certification Pursuant to the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2016

By virtue of the authority vested in me as the Deputy Secretary of State by Department of State Delegation of Authority 245–1, and pursuant to Section 7045(a)(3)(A) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2016 (Div. K, Pub. L. 114–113), I hereby certify that the central government of Guatemala is taking effective steps to:

- Inform its citizens of the dangers of the journey to the southwest border of the United States;
- Combat human smuggling and trafficking;
- Improve border security; and;
- Cooperate with United States government agencies and other governments in the region to facilitate the return, repatriation, and reintegration of illegal migrants arriving at the southwest border of the United States who do not qualify as refugees, consistent with international law.

This certification shall be published in the **Federal Register** and, along with the accompanying Memorandum of Justification, shall be reported to Congress.

Dated: March 10, 2016.

Antony J. Blinken,

Deputy Secretary of State.

[FR Doc. 2016–06311 Filed 3–18–16; 8:45 am]

BILLING CODE 4710–29–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2000–7137]

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated February 24, 2016, petitioner San Diego Trolley Incorporated (SDTI) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR. FRA assigned the petition Docket Number FRA–2000–7137.

SDTI seeks a 5-year extension of its existing waiver of compliance with some modifications. The waiver covers several sections of Title 49 CFR and applies to certain portions of SDTI's light rail transit operations that employ temporal separation in order to safely share track with the general railroad system's San Diego and Imperial Valley Railroad. Contiguous to the shared trackage are portions with limited connections to the general railroad system, which include a small shared corridor with BNSF Railway and Coaster commuter train service (Coaster also shares a storage yard with SDTI). SDTI received its initial waiver and permission from the FRA on January 19, 2001; the waiver was extended for 5 years on September 11, 2006, to include minor operational changes and the waiver was recently extended for 5 years on June 22, 2011, (this most recent extension updated CFR section changes made since 2006). In 2012, SDTI received a separate waiver from FRA to operate its SD100 and S70 rolling stock at speeds that generate cant deficiency not exceeding 6 inches on its Orange Line joint use trackage. See Docket Number FRA–2012–0088. To simplify matters, SDTI now requests that the relief in both Dockets be combined and baselined in Docket FRA–2000–7137.

Based on the foregoing, SDTI seeks relief from the following parts and sections in 49 CFR: 213.57—*Curves, elevation and speed limitations;* Part 217—Railroad Operating Rules (except for 217.9(d)); 218.27(a)—Railroad Operating Practices (as granted in part and denied in part in FRA's January 19, 2001, decision letter); Part 219—Control of Drug and Alcohol Use; Part 220—Railroad Communications (as granted in part in FRA's January 19, 2001, decision letter); Part 221—Rear End Marking Device; 223.9(c) and 223.17—*Identification of equipped locomotives;*

passenger cars and cabooses; 223.15(c)—Emergency Window Requirements and Emergency Exit Markings; Part 225—Railroad Accident/Incidents: Reports Classification, and Investigations (for employee injuries only); 229.46–229.59, 229.61, 229.65, 229.71, 229.71, 229.77, 229.125, and 229.135—*Event recorders;* 231.14—*Passenger-train cars without end platforms;* the following sections of Part 238—Passenger Equipment Safety Standards: 238.113, 238.114, 238.115(b)(4), 238.203, 238.205, 238.207, 238.209, 238.211, 238.213, 238.215, 238.217, 238.219, 238.231, 238.233, 238.235, 238.237, and part 238, Subpart D in its entirety, sections 238.301 through 238.319; Part 239—Passenger Train Emergency Preparedness; and Part 240—Qualification and Certification of Locomotive Engineers.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.,* Waiver Petition Docket Number FRA–2000–7137) and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by May 5, 2016 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.* See also *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov.

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2016–06212 Filed 3–18–16; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2016–0019]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated January 4, 2016, the New York, Susquehanna and Western Railway (NYSW) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from several provisions of the Federal railroad safety regulations. Specifically, NYSW requests relief from certain provisions of 49 CFR part 240, Qualification and Certification of Locomotive Engineers, and Part 242, Qualification and Certification of Conductors. The request was assigned Docket Number FRA–2016–0019. The relief is contingent on NYSW's implementation of and participation in the Confidential Close Call Reporting System (C^3RS) pilot project.

NYSW seeks to shield reporting employees and the railroad from mandatory punitive sanctions that would otherwise arise as provided in 49 CFR 240.117(e)(1)–(4); 240.305(a)(l)–(4) and (a)(6); 240.307; and 242.403(b), (c), (e)(l)–(4), (e)(6)–(11), (f)(l)–(2); and 242.407. The C^3RS pilot project encourages certified operating crew members to report close calls and protect the employees and the railroad from discipline or sanctions arising from the incidents reported per the C^3RS Implementing Memorandum of Understanding (IMOU).

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received within May 5, 2016 of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.* See also

http://www.regulations.gov/#!privacyNotice for the privacy notice of regulations.gov.

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2016–06214 Filed 3–18–16; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2016–0018]

Petition for Waiver of Compliance and Statutory Exemption

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document received February 5, 2016, the Association of American Railroads (AAR), on behalf of itself and its member railroads, has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 232—Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices. FRA assigned the petition Docket Number FRA–2016–0018.

In its petition, AAR seeks a waiver of compliance from 49 CFR 232.213—*Extended haul trains,* 49 CFR 232.15—*Movement of defective equipment,* and 49 CFR 232.103(f)—*General requirements for all train brake systems.* The current rules state that extended haul trains are permitted to move a train up to, but not exceeding, 1,500 miles between brake tests and inspections [49 CFR 232.213(a)]. In addition, current rules require that equipment with defective or insecure power brakes only be moved from the place at which the defect or insecurity was first discovered to the nearest available place at which the repairs can be made (49 CFR 232.15 and 49 U.S.C. 20303), and each car in a train must have the air brakes in effective operating conditions unless the car is being moved for repairs in accordance with 49 CFR 232.15 [49 CFR 232.103(f)]. AAR presently petitions FRA for a 5-year waiver from these requirements to permit a limited pilot program conducted on a segment of the Union Pacific Railroad (UP) system to demonstrate that the use of wheel temperature detectors (WTD) to determine brake effectiveness will improve safety and eliminate unnecessary costs to the industry. AAR previously submitted a waiver petition in this matter on July 19, 2013. That waiver petition was denied by FRA in a letter dated June 20, 2014 (see Docket Number FRA–2013–0080). AAR has revised that waiver petition and accompanying Safety Assurance Plan (SAP) in accordance with further technical considerations and an evaluation of the similar exemption currently in effect in Canada.

Through a limited pilot effort, AAR intends to demonstrate the effectiveness of using wayside WTD data to ensure safe braking performance. The focus of this pilot will be revenue service unit coal trains running on the UP system between Wyoming's Powder River Basin and an unloading facility in White Bluff, AR, a round trip of approximately 2,600 miles. The WTD that monitors the system is located at Sheep Creek, WY. Under current UP operating practices, the coal trains running in this service are classified as extended haul trains and operate intact up to 1,500 miles between brake tests required under 49 CFR part 232. The waiver requested would extend the distance between required tests up to an additional potential 1,100 miles, bypassing approximately one visual inspection. Each test train will receive a Class 1 brake test in accordance with 49 CFR 232.205 and a predeparture inspection in accordance with 49 CFR 215.13 at North Platte, NE. The trains will then leave North Platte and travel to a coal loading facility in the Powder River Basin. The train cars will be loaded with coal and then return to North Platte, passing the WTD monitors at Sheep Creek for recording of braking performance, continuing through North Platte through Van Buren, AR, and then to an unloading facility in White Bluff. The train cars will be unloaded in White Bluff, and then the train will return to the terminus at North Platte via Van Buren.

In its petition, AAR states preliminary tests conducted with the WTD system indicate that the system identifies cars with ineffective brakes at a significantly higher rate (about four times more) than Intermediate Brake Tests. This is because the WTD system detects cars with ineffective brakes, even though they might still meet the criteria of a Class 1 or Intermediate Brake Test. Identification of such cars by the WTD system will result in those cars being repaired earlier, with the eventual result that a greater percentage of cars in any train would have effective brakes. AAR expects this will result in improved train safety.

Finally, AAR also requests an exemption from the statutory requirements at 49 U.S.C. 20303, which mandate that a rail vehicle with defective or insecure equipment may be moved to make repairs only to the nearest available place at which the repairs can be made. In requesting this exemption, AAR invokes the process at 49 U.S.C. 20306, which states that the U.S. Secretary of Transportation may provide such an exemption when existing requirements preclude the development or implementation of more efficient railroad transportation equipment or other transportation innovations under existing law. As delineated in the SAP, the WTD system is a superior method to manage brake health as compared with the current process found in the Federal brake system safety standards. AAR requests a hearing during which evidence can be developed per 49 U.S.C. 20306 for a statutory exemption to 49 U.S.C. 20303.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA will in the future schedule a public hearing in connection with these proceedings as requested by AAR pursuant to 49 U.S.C. 20306. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by May 5, 2016 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.* See also *http://www.regulations.gov/#!privacy.* Notice for the privacy notice of regulations.gov.

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2016–06213 Filed 3–18–16; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket No. NHTSA–2016–0034]

Reports, Forms, and Record Keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections.

This document describes the collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before May 20, 2016.

ADDRESSES: You may submit comments identified by DOT Docket ID Number NHTSA–2016–0034 using any of the following methods:

Electronic submissions: Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

Mail: Docket Management Facility, M–30, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.

Hand Delivery: 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.

Fax: 1–202–493–2251.

Instructions: Each submission must include the Agency name and the Docket number for this Notice. Note that all comments received will be posted without change to *http://www.regulations.gov* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Dr. Kristie Johnson, Office of Behavioral Safety Research (NPD–310), National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., W46–498, Washington, DC 20590. Dr. Johnson's phone number is 202–366–2755 and her email address is *kristie.johnson@dot.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks public comment on the following proposed collection of information:

Title: Countermeasures That Work (9th and 10th Editions) and Countermeasures At Work (1st and 2nd Editions).

Type of Request: New information collection requirement.

OMB Clearance Number: None.

Form Numbers: NHTSA 1343 and NHTSA 1344.

Requested Expiration Date of Approval: 3 years from date of approval.

Summary of the Collection of Information: The National Highway Traffic Safety Administration (NHTSA) proposes to collect user feedback on the *Countermeasures That Work* and *Countermeasures At Work* guides. These guides were developed for the State Highway Safety Offices (SHSOs) to assist them in developing programs for implementing safety countermeasures in nine program area of alcohol-impaired and drugged driving, seat belt use and child restraints, aggressive driving and speeding, distracted and drowsy driving, motorcycle safety, young drivers, older drivers, pedestrians, and bicyclists. The *Countermeasures That Work* guide covers each of these program areas in separate chapters that include a short background section relaying current data trends, which is followed by a description of applicable countermeasures, and an explanation their effectiveness, use, costs, and time to implement. The *Countermeasures At Work* guide will elaborate on some of the countermeasures contained in the *Countermeasures That Work* guide by providing real world examples and details on localities where specific countermeasures were put into place. The countermeasure descriptions may include details about locality size, implementation issues, cost, stakeholders to involve, challenges, evaluation, and outcomes. To collect this information for the new guide NHTSA proposes to collect information from representatives from the SHSOs and/or local jurisdictions, in addition to representative from Governors Highway Safety Association (GHSA), State Coordinators, and other relevant stakeholders. The survey will ask the representatives about the following information:

- Their background, including job roles and responsibilities, which provide context for document use,
- What are their key information needs for the document, including obtaining details of specific use-case examples such as locality size, implementation issues, cost, stakeholders to involve, challenges, evaluation, and outcomes,
- Opinions on document structure, format, and content, which includes using a consistent question format for different information items/sections in the document,

• Opinions about specific aspects and potential changes or improvements pertaining to examples of alternative presentation formats,

• Opinions about how the Countermeasures At Work guide would be used, what information should be included, and if stakeholders have information about good locality examples, and

• Opinions about features or topics that should be included both guides, such as the additions of figures and illustrations, and adjustments to the design of topic subsections.

Description of the Need for the Information and Proposed Use of the Information: The NHTSA is an agency of the U.S. Department of Transportation (DOT). NHTSA's mission is to save lives, prevent injuries, and reduce traffic-related health care and other economic costs. The agency develops, promotes, and implements effective educational, engineering, and enforcement programs with the goal of ending preventable tragedies and reducing economic costs associated with vehicle use and highway travel. The public health approach to traffic safety has resulted in a mix of countermeasures, and the choices among them are driven by research on their effectiveness. Generally this approach includes some combination of countermeasures aimed at improving safety in terms of improved vehicles, education, improved roads, enhanced road user perception, and behavior and better enforcement of traffic safety laws. In 2005, the Governors Highway Safety Association and the National Highway Traffic Safety Administration developed a guide of *Countermeasures That Work* for the State Highway Safety Offices that provides a basic reference to assist in selecting effective, evidence-based countermeasures for traffic safety problem areas. In the current research project, NHTSA is also proposing to develop an extension of the guide—*Countermeasures At Work* that will provide details on real world implementations of countermeasures to assist the SHSOs with countermeasure selection process. Both *Countermeasures That Work* and *Countermeasures At Work* will serve as basic references on traffic safety measures that State Highway Safety Offices use to develop policy, and make decisions about the implementation of safety programs for reducing traffic fatalities. The data collected in this project will help update and improve both guides.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information): It is expected that conducting this research will require interviewing up to 250 representatives from the SHSOs and/or local jurisdictions, in addition to representatives from the Governors Highway Safety Association (GHSA), State Coordinators from across the United States, and other important stakeholders. On average about 80 structured interviews (in person or by telephone) will be conducted each of the three project years. It is expected that most of the participants in the first round of interviews will participate in the second round of interviews, so the total number of individuals interviewed will be substantially less than 250.

Estimate of the Total Annual Reporting and Record Keeping Burden Resulting From the Collection of Information: The estimated completion time for each semi-structured interview is 90 minutes per interview per participant. The total estimated annual burden if all solicited participants respond is approximately 125 hours. Participants will incur no costs and no record keeping burden from the information collection. Participants will also receive no compensation from the project for their involvement in the interviews.

Authority: 44 U.S.C. Section 3506(c)(2)(A).

Issued in Washington, DC, on March 16, 2016.

Jeff Michael,

Associate Administrator, Research and Program Development.

[FR Doc. 2016–06258 Filed 3–18–16; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting; correction.

SUMMARY: In the **Federal Register** notice that was originally published on March 15, 2016, (Volume 81, Number 50, Page 13876) the day was written as Tuesday instead of Thursday. The meeting date is: Thursday, April 14, 2016.

DATES: The meeting will be held Thursday, April 14, 2016.

FOR FURTHER INFORMATION CONTACT: Donna Powers at 1–888–912–1227 or (954) 423–7977.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee will be held Thursday, April 14, 2016, at 1:00 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Donna Powers. For more information please contact: Donna Powers at 1–888–912–1227 or (954) 423–7977 or write: TAP Office, 1000 S. Pine Island Road, Plantation, FL 33324 or contact us at the Web site: *http://www.improveirs.org.* The committee will be discussing various issues related to Tax Forms and Publications and public input is welcomed.

Dated: March 15, 2016.

Antoinette Ross,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2016–06236 Filed 3–18–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting; correction.

SUMMARY: In the **Federal Register** notice that was originally published on March 15, 2016, (81 FR 13877) the time was written as 3:00 p.m. instead of 2:00 p.m. The meeting date is: Thursday, April 21, 2016 at 2:00 p.m.

DATES: The meeting will be held Thursday, April 21, 2016.

FOR FURTHER INFORMATION CONTACT: Antoinette Ross at 1–888–912–1227 or (202) 317–4110.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee will be held Thursday, April 21, 2016, at 2:00 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of

intent to participate must be made with Antoinette Ross. For more information please contact: Antoinette Ross at 1–888–912–1227 or (202) 317–4110, or write TAP Office, 1111 Constitution Avenue NW., Room 1509–National Office, Washington, DC 20224, or contact us at the Web site: *http://www.improveirs.org.*

The committee will be discussing various issues related to Taxpayer Communications and public input is welcome.

Dated: March 15, 2016.

Antoinette Ross,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2016–06237 Filed 3–18–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0703]

Proposed Information Collection (Dependent's Educational Assistance (DEA) Election Letter) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The 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 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 May 20, 2016.

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. 2900–0703 in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), 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.

Title: Dependent's Educational Assistance (DEA) Election Letter.

OMB Control Number: 2900–0703.

Type of Review: Revision of a currently approved collection.

Abstract: VA FL 22–909 is used by eligible student children and some dependent spouses to elect the beginning date of their eligibility period under the Survivors' and Dependents' Educational Assistance (DEA) program. VA will use the information collected to determine when to begin their payment. It is mandatory VA notify the dependent child of the opportunity to make an election. It is not mandatory VA provide spouses the opportunity to make an election, but they may also elect a beginning date.

Affected Public: Individuals or households.

Estimated Annual Burden: 96 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 384.

By direction of the Secretary.

Kathleen M. Manwell,

Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2016–06270 Filed 3–18–16; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW]

Proposed Information Collection—Status of Loan Account—Foreclosure or Other Liquidation, VA Form 26–0971; Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The 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 new collection, and allow 60 days for public comment in response to the notice. The holder of a vendee account which has been guaranteed by the Department of Veterans Affairs (VA) may request VA to repurchase a loan as provided in 38 CFR 36.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 20, 2016.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administrations (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–NEW'' (Status of Loan Account—Foreclosure or other Liquidation, VA Form 26–0971)'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), 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.

Title: Status of Loan Account—Foreclosure or other Liquidation.

OMB Control Number: 2900–NEW.

Type of Review: New collection.

Abstract: Under 38 CFR 36, the holder of a delinquent vendee account is legally entitled to repurchase of the loan by VA when the loan has been continuously in default for 3 months and the amount of the delinquency equals or exceeds the sum of 2 monthly installments. When requesting the repurchase of a loan, the holder uses VA Form 26–0971.

Affected Public: Individuals or households.

Estimated Annual Burden: 10 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 20.

By direction of the Secretary.

Kathleen M. Manwell,

Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2016–06275 Filed 3–18–16; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans Benefits Administration

Web Automated Reference Material System

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Aimee Benson, Chief of the Procedures Maintenance Staff, Compensation Service, at (202) 461–9700 or via email at *M21-1.VBAVACO@va.gov.*

SUPPLEMENTARY INFORMATION: The Web Automated Reference Manual System (WARMS), available at *http://www.benefits.va.gov/WARMS/,* provides public access to Department of Veterans Affairs (VA) benefits policies and procedures issued in the form of manuals, directives, and handbooks. Historically, the Veterans Benefits Administration's Adjudication Procedures Manual, M21–1, for VA's Compensation, Pension, Dependency and Indemnity Compensation, and monetary Burial benefits programs, was electronically available to the public only in WARMS. WARMS displays M21–1 content in individual Microsoft Word documents, currently in excess of 300 documents, making it difficult to search for information or navigate from one citation to another.

On April 15, 2015, VA began providing additional electronic public access to M21–1 through the KnowVA Knowledge Base, available at *http://www.knowva.ebenefits.va.gov/.* The M21–1 content found on KnowVA is a mirror image of the M21–1 content available to VA employees through internal servers and is updated simultaneously when VA updates M21–1 content on the internal servers. Moreover, KnowVA is more user friendly than WARMS, with an intuitive search engine, keyword search capability, hyperlinked cross references to other M21–1 content, and historical versions of M21–1 content, making it easier for users to locate information.

Consequently, effective March 28, 2016, VA will remove the duplicative M21–1 content available through WARMS and will direct users to KnowVA for access to the M21–1. VA will only remove duplicative M21–1 content that is now available, content not available in KnowVA will continue to be available through WARMS.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert D. Snyder, Interim Chief of Staff, Department of Veterans Affairs, approved this document on March 11, 2016, for publication.

Dated: March 16, 2016.

Michael Shores,

Chief Impact Analyst, Office of Regulation Policy & Management, Office of the General Counsel, Department of Veterans Affairs.

[FR Doc. 2016–06257 Filed 3–18–16; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0465]

Agency Information Collection (Student Verification of Enrollment) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 20, 2016.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0465'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0465.''

SUPPLEMENTARY INFORMATION:

Title: Student Verification of Enrollment.

OMB Control Number: 2900–0465.

Type of Review: Revision of an already approved collection.

Abstract: VA Form 22–8979 is used by students to submit their verification of enrollment on a monthly basis to allow for a frequent and periodic release of payment. Without this information, VA could not pay benefits based on proof of attendance and/or change in enrollment.

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. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection

of information was published at 80 FR 31224, on December 11, 2015, pages 77084 and 77085.

Affected Public: Individuals or Households.

Estimated Annual Burden: 12,961 hours.

Estimated Average Burden per Respondent: 1 minute.

Frequency of Response: Annually.

Estimated Number of Respondents: 777,688 respondents.

By direction of the Secretary.

Kathleen M. Manwell,

Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2016–06273 Filed 3–18–16; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0736]

Proposed Information Collection (Authorization To Disclose Personal Information to a Third Party) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The 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 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 May 20, 2016.

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. 2900–0736'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), 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.

Title: Authorization to Disclose Personal Information to a Third Party.

OMB Control Number: 2900–0736.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 21–0845 is used to release information in its custody or control in the following circumstances: Where the individual identifies the particular information and consents to its use; for the purpose for which it was collected or a consistent purpose (*i.e.,* a purpose which the individual might have reasonably expected).

Affected Public: Individuals or households.

Estimated Annual Burden: 1,667 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 20,000.

By direction of the Secretary.

Kathleen M. Manwell,

Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2016–06272 Filed 3–18–16; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0020]

Proposed Information Collection—Designation of Beneficiary (VA Form 29–336) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The 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. This notice solicits comments on information needed to record an official beneficiary designation of a Life Insurance Policy.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 20, 2016.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administrations (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0020'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), 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.

Title: Designation of Beneficiary, VA Form 29–336.

OMB Control Number: 2900–0020.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 29–336 is used by the insured to designate a beneficiary and select an optional settlement to be used when the insurance matures by death. This information is required to determine the claimant's eligibility to receive the processed. The information on the form is request by la, 38 U.S.C. Sections 1917, 1949, and 1952.

Affected Public: Individuals or households.

Estimated Annual Burden: 13,917 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 83,500.

By direction of the Secretary.

Kathleen M. Manwell,

Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2016–06274 Filed 3–18–16; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0055]

Proposed Information Collection (Request for Determination of Loan Guaranty Eligibility—Unmarried Surviving Spouses); Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The 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 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 May 20, 2016.

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. 2900–0055'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), 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.

Title: Request for Determination of Loan Guaranty Eligibility—Unmarried Surviving Spouses.

OMB Control Number: 2900–0055.

Type of Review: Revision of a currently approved collection.

Abstract: Section 3702(c) of Title 38, U.S.C. states that any veteran may apply to the Secretary for a certificate of eligibility. A completed VA Form 26–1817 constitutes a formal request by the unmarried surviving spouse of a veteran for a certificate of eligibility.

Affected Public: Individuals or households.

Estimated Annual Burden: 4 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 25.

By direction of the Secretary.

Kathleen M. Manwell,

Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2016–06271 Filed 3–18–16; 8:45 am]

BILLING CODE 8320–01–P

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