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DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[Docket No. EERE–2006–BT–TP–0029]

RIN 1904–AD71

Energy Conservation Program: Test Procedures for Central Air Conditioners and Heat Pumps; Correction

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule; technical correction.

SUMMARY: On March 21, 2017, the U.S. Department of Energy (DOE) published in the **Federal Register** a document that temporarily further postponed the effective date of its test procedures for central air conditioners and heat pumps. This document corrects a typographical error in that document.

DATES: *Effective:* March 29, 2017.

FOR FURTHER INFORMATION CONTACT:
Ms. Ashley Armstrong, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–6590. Email: *Ashley.Armstrong@ee.doe.gov.*
Ms. Johanna Jochum, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–6307. Email: *Johanna.Jochum@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On March 21, 2017, DOE further temporarily postponed the effective date of its final rule amending the test procedures for central air conditioners and heat pumps published in the **Federal Register** on January 5, 2017. 82 FR 14425; see also 82 FR 1426.[1] DOE indicated in the March 21 document that the new effective date of the test procedure would be the same date as the original compliance date, and stated that date as July 3, 2017. However, the January 5 final rule provided that the compliance date with appendix M of the test procedure, as determined by statute, would be 180 days after publication of the final rule in the **Federal Register**, *i.e.,* July 5, 2017. 82 FR 1426 (Jan. 5, 2017). DOE did not intend by the March 21 document to change the original compliance date, nor does it have authority to do so. As such, the statement in the March 21 notice that the compliance date of the final rule was July 3, 2017, was in error. Thus, DOE is issuing this correction to fix the error and clarify that the compliance date with Appendix M of the January 5 final rule has been and remains July 5, 2017, and, therefore, the effective date of the January 5 final rule is also July 5, 2017.

II. Need for Correction

As published, the March 21, 2017, notice may potentially result in confusion regarding how to correctly conduct DOE's central air conditioners and heat pumps test procedure. Because this final rule would simply correct errors in the preamble without making any changes to the test procedures, the changes addressed in this document are technical in nature. Accordingly, DOE finds that there is good cause under 5 U.S.C. 553(b)(B) to not issue a separate document to solicit public comment on the changes contained in this document. Issuing a separate document to solicit public comment would be impracticable, unnecessary, and contrary to the public interest.

III. Procedural Requirements

DOE has concluded that the determinations made pursuant to the various procedural requirements applicable to the January 5, 2017 test procedure final rule remain unchanged for this final rule technical correction. These determinations are set forth in the January 5, 2017, final rule. 82 FR 1426.

Issued in Washington, DC, on March 23, 2017.

John T. Lucas,

Acting General Counsel.

[FR Doc. 2017–06202 Filed 3–28–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–0986; Airspace Docket No. 15–AEA–7]

Amendment of Air Traffic Service (ATS) Routes; Eastern United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; delay of effective date.

SUMMARY: This action changes the effective date of a final rule published in the **Federal Register** on February 27, 2017, amending area navigation (RNAV) routes Q–39 and Q–67 in the eastern United States. The FAA is delaying the effective date to coincide with the expected completion of associated enroute and terminal procedures.

DATES: The effective date of the final rule published on February 27, 2017 (82 FR 11804) is delayed from April 27, 2017 to October 12, 2017. The Director of the Federal Register approved this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace Policy Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

The FAA published a final rule amending area navigation (RNAV) routes Q–39 and Q–67 in the eastern United States (82 FR 11804, February 27, 2017), Docket No. FAA–2016–0986. The effective date for that final rule is April 27, 2017. The FAA expects to complete associated enroute and terminal procedures for these routes by for October 12, 2017; therefore the rule

[1] DOE had previously temporarily postponed the effective date of this final rule for 60 days from January 20, 2017, *i.e.,* until March 21, 2017, see 82 FR 8985 (Feb. 2, 2017).

amending Q–39 and Q–67 is delayed to coincide with that date.

Area navigation routes are published in paragraph 2006 of FAA Order 7400.11A dated August 3, 2016, and effective September 15, 2016, which is incorporated by reference in 14 CFR 71.1. The area navigation routes listed in this document will be subsequently published in the Order.

Good Cause for No Notice and Comment

Section 553(b)(3)(B) of Title 5, United States Code, (the Administrative Procedure Act) authorizes agencies to dispense with notice and comment procedures for rules when the agency for ''good cause'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without seeking comment prior to the rulemaking. The FAA finds that prior notice and public comment to this final rule is unnecessary due to the brief length of the extension of the effective date and the fact that there is no substantive change to the rule.

Delay of Effective Date

Accordingly, pursuant to the authority delegated to me, the effective date of the final rule, Airspace Docket 15–AEA–7, as published in the **Federal Register** on February 27, 2017 (82 FR 11804), FR. Doc. 2017–03507, is hereby delayed until October 12, 2017.

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

Issued in Washington, DC, on March 22, 2017.

M. Randy Willis,

Acting Manager, Airspace Policy Group.

[FR Doc. 2017–06117 Filed 3–28–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 170109042–7255–01]

RIN 0694–AH30

Removal of Certain Persons From the Entity List; Addition of a Person to the Entity List; and EAR Conforming Change

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Export Administration Regulations (EAR) by removing two persons listed under the destination of China from the Entity List. The two removals are the result of a request for removal received by BIS pursuant to the section of the EAR used for requesting removal or modification of an Entity List entry and a review of information provided in the removal request in accordance with the procedure for requesting removal or modification of an Entity List entity. In light of the recent settlement of administrative and criminal enforcement actions against ZTE Corporation and ZTE Kangxun, the End-User Review Committee (ERC) has determined that these two persons being removed have performed their undertakings to the U.S. Government in a timely manner and have otherwise cooperated with the U.S. Government in resolving the matter which led to the two entities' listing.

This final rule also adds one person to the Entity List. This person who is added to the Entity List has been determined by the U.S. Government to be acting contrary to the national security or foreign policy interests of the United States. This person will be listed on the Entity List under the destination of China.

Lastly, this final rule makes a conforming change to the EAR as a result of the removal of these two persons from the Entity List.

DATES: This rule is effective March 29, 2017.

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, 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 End-User Review Committee (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

Removals From the Entity List

This rule implements a decision of the ERC to remove the following two entries from the Entity List: Zhongxing Telecommunications Equipment (ZTE) Corporation and ZTE Kangxun Telecommunications Ltd. These two entities were added to the Entity List on March 8, 2016 (see 81 FR 12006).

The U.S. Government recently reached an agreement with ZTE Corporation and ZTE Kangxun for the settlement of administrative charges and entry of a guilty plea in a criminal case against the companies. On March 7, 2017, Secretary of Commerce Wilbur L. Ross, Jr., issued a statement regarding the settlement and guilty plea, which resulted in a very substantial monetary penalty, intrusive independent monitoring, and additional suspended penalties that will be imposed if ZTE fails to meet its obligations or further violates U.S. export controls.

In light of the settlement, the ERC has determined that ZTE Corporation and ZTE Kangxun have performed their undertakings to the U.S. Government in a timely manner and have otherwise cooperated with the U.S. Government in resolving the matter which led to the two entities' listing. Therefore, the ERC has decided to remove these two entities from the Entity List.

This final rule implements the decision to remove the following two entities located in China from the Entity List:

China

(1) *Zhongxing Telecommunications Equipment (ZTE) Corporation,* ZTE Plaza, Keji Road South, Hi-Tech Industrial Park, Nanshan District, Shenzhen, China; *and*

(2) *ZTE Kangxun Telecommunications Ltd.,* 2/3 Floor,

Suite A, ZTE Communication Mansion Keji (S) Road, Hi-New Shenzhen, 518057 China.

The removal of the 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 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, this removal does 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.

Addition to the Entity List

This rule implements the decision of the ERC to add one person to the Entity List. This person is 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 person added to the Entity List will be listed under the destination of China.

The ERC reviewed § 744.11(b) (Criteria for revising the Entity List) in making the determination to add this person to the Entity List. Under that paragraph, persons and those acting on behalf of such persons may be added to the Entity List if 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. 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(b) of the EAR, the ERC determined that this person, Shi Lirong, located in the destination of China, be added to the Entity List for actions contrary to the national security or foreign policy interests of the United States. The ERC determined that there is reasonable cause to believe, based on specific and articulable facts, that Shi Lirong has been involved in actions contrary to the national security or foreign policy interests of the United States. Specifically, Shi Lirong was the CEO of ZTE Corporation at the time the ZTE documents that contributed to ZTE's listing were signed. Shi Lirong signed and approved the document ''Report Regarding Comprehensive Reorganization and Standardization of the Company Export Control Related Matters,'' which described how ZTE planned and organized a scheme to establish, control and use a series of ''detached'' (*i.e.,* shell) companies to illicitly reexport controlled items to Iran in violation of U.S. export control laws.

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

For this person 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 this person or in which such person acts as purchaser, intermediate consignee, ultimate consignee, or end-user. In addition, no license exceptions are available for exports, reexports, or transfers (in-country) to this person being added to the Entity List in this rule.

This final rule adds the following person to the Entity List:

China

(1) *Shi Lirong,* Yuanzhong Garden Tower A, Room 26A, Futian, Shenzhen, China; *and* Xinghai Mingcheng, 2nd Floor, Shenzhen, China.

Conforming EAR Change

This final rule removes Supplement No. 7 to part 744—Temporary General License, which was originally added to the EAR in a final rule on March 24, 2016 (81 FR 15633). The March 24 final rule amended the EAR by adding Supplement No. 7 to part 744 to create a temporary general license that returned, until June 30, 2016, the licensing and other policies of the EAR regarding exports, reexports, and transfers (in-country) to ZTE Corporation and ZTE Kangxun to those which were in effect prior to their addition to the Entity List on March 8, 2016. BIS subsequently extended the validity date of the temporary general license on four occasions (June 28, 2016 (81 FR 41799), August 19, 2016 (81 FR 55372), November 18, 2016 (81 FR 81663), and February 24, 2017 (82 FR 11505)), resulting in the current validity end-date of March 29, 2017.

As described above under the section *Removals From the Entity List,* this final rule removes the two entities identified in the temporary general license from the Entity List. Therefore, this final rule removes as a conforming change Supplement No. 7 to part 744 because it is no longer needed.

Export Administration Act of 1979

Although the Export Administration Act of 1979 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 4, 2016, 81 FR 52587 (August 8, 2016), 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 of 1979, 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). 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. The provisions of the Administrative Procedure Act (APA) (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 person being added to the Entity List. If the effective date of this rule were delayed to allow for notice and comment, then the person being added to the Entity List by this action would be able to continue receiving items subject to the EAR without a license, to the detriment of the national security and foreign policy interests of the United States. In addition, publishing a proposed rule would give this party notice of the U.S. Government's intention to place him on the Entity List and would create an incentive for this person to accelerate his receipt of items subject to the EAR in order to conduct activities that are contrary to the national security or foreign policy interests of the United States, to set up additional aliases, change addresses, and/or to take other measures to try to limit the impact of the listing on the Entity List after a final rule is 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 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 two persons removed from the Entity List in this final rule and for the conforming EAR change to remove Supplement No. 7 to part 744, BIS finds good cause, pursuant to the APA, 5 U.S.C. 553(b)(B), 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 a request for removal 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 two 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 entities 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 regulatory process established by the rule published at 73 FR 49311 on August 21, 2008. By publishing without prior notice and comment, BIS allows the applicants to receive U.S. exports immediately because the applicants already have received approval by the ERC pursuant to 15 CFR part 744, Supplement No. 5, as noted in 15 CFR 744.16(b).

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 the detailed information on which the ERC relied to make the decisions to remove these 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 of 1979), 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.

Additionally, 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 two persons from the Entity List removes requirements (the Entity-List-based license requirement and limitation on use of license exceptions) related to these two persons.

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 730–774) is amended as follows:

PART 744—[AMENDED]

■ 1. The authority citation for 15 CFR part 744 is revised 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 4, 2016, 81 FR 52587 (August 8, 2016); Notice of September 15, 2016, 81 FR 64343 (September 19, 2016); Notice of November 8, 2016, 81 FR 79379 (November 10, 2016); Notice of January 13, 2017, 82 FR 6165 (January 18, 2017).

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

■ a. By removing, under China, two Chinese entities, ''Zhongxing Telecommunications Equipment (ZTE) Corporation, ZTE Plaza, Keji Road South, Hi-Tech Industrial Park, Nanshan District, Shenzhen, China''; and ''ZTE Kangxun Telecommunications Ltd., 2/3 Floor, Suite A, ZTE Communication Mansion Keji (S) Road, Hi-New Shenzhen, 518057 China ''; and

■ b. By adding, under China, one Chinese entity.

The addition reads 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				
*	*	*	*	*
	Shi Lirong, Yuanzhong Garden Tower A, Room 26A, Futian, Shenzhen, China; *and* Xinghai Mingcheng, 2nd Floor, Shenzhen, China.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	82 FR [INSERT FR PAGE NUMBER]; March 29, 2017.
*	*	*	*	*

Supplement No. 7 to Part 744—[Removed]

■ 3. Remove Supplement No. 7 to Part 744.

Dated: March 24, 2017.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 170103009–7300–02]

RIN 0694–AH28

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 removing seven persons under ten entries from the Entity List. This rule removes four persons listed under the destination of Germany, one person listed under the destination of Hong Kong, one person listed under the destination of India, one person listed under the destination of Singapore, one person listed under the destination of Switzerland, and two persons under the destination of the United Arab Emirates from the Entity List. The three additional entries are being removed to account for two persons listed under more than one destination on the Entity List. All seven of the removals are the result of requests for removal received by BIS pursuant to the section of the EAR used for requesting removal or modification of an Entity List entity and a review of information provided in the removal requests in accordance with the procedure for requesting removal or modification of an Entity List entity.

DATES: This rule is effective March 29, 2017.

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, 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

Removal From the Entity List

This rule implements a decision of the ERC to remove the following ten entries from the Entity List on the basis of removal requests received by BIS: Industrio GmbH, Martin Hess, Peter Duenker, and Wilhelm ''Bill'' Holler, all located in Germany; Frank Genin, located in Hong Kong and the U.A.E. (which accounts for two of the entries this final rule removes); Beaumont Trading AG, located in India, Switzerland, and the U.A.E. (which accounts for three of the entries this final rule removes); and Amanda Sng, located in Singapore. These seven persons under ten entries were added to the Entity List on March 21, 2016 (see 81 FR 14958). The ERC decided to remove these seven persons under ten entries based on information received by BIS pursuant to § 744.16 of the EAR

and further review conducted by the ERC.

This final rule implements the decision to remove the following four entities located in Germany, one entity located in Hong Kong, one entity located in India, one entity located in Singapore, one entity located in Switzerland, and two entities located in the U.A.E. from the Entity List:

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 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.).

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.).

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) *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); *and*

(2) *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).

The removal of the 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 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, this removal does 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.

Export Administration Act of 1979

Although the Export Administration Act of 1979 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 4, 2016, 81 FR 52587 (August 8, 2016), 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 of 1979, 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 seven persons under ten 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 a request for removal 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 seven removals under ten entries 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 entities 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 applicants to receive U.S. exports immediately because the applicants already have received approval by the ERC pursuant to 15 CFR part 744, Supplement No. 5, as noted in 15 CFR 744.16(b).

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 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 of 1979), 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 seven persons under ten entries from the Entity List removes requirements (the Entity-List-based license requirement and limitation on use of license exceptions) on these seven persons being removed from the Entity List. The rule does not impose a requirement on any other person for these 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 730–774) is amended as follows:

PART 744—[AMENDED]

■ 1. The authority citation for 15 CFR part 744 is revised 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 4, 2016, 81 FR 52587 (August 8, 2016); Notice of September 15, 2016, 81 FR 64343 (September 19, 2016); Notice of November 8, 2016, 81 FR 79379 (November 10, 2016); Notice of January 13, 2017, 82 FR 6165 (January 18, 2017).

Supplement No. 4 to Part 744—[Amended]

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

■ a. By removing, under Germany, four German entities, ''Industrio GmbH, Dreichlinger Street 79, Neumarkt, 92318 Germany''; ''Martin Hess, Dreichlinger Street 79, Neumarkt, 92318 Germany''; ''Peter Duenker, a.k.a., the following alias: -Peter Dunker. Dreichlinger Street 79, Neumarkt, 92318 Germany''; and ''Wilhelm ''Bill'' Holler, Dreichlinger Street 79, Neumarkt, 92318 Germany'';

■ b. By removing, under Hong Kong, one Hong Kong entity, ''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.)'';

■ c. By removing, under India, one Indian entity, ''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.)'';

■ d. By removing, under Singapore, one Singaporean entity, ''Amanda Sng, 211 Henderson Road, #13–02 Henderson Industrial Park, Singapore 159552'';

■ e. By removing under Switzerland, one Swiss entity, ''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.)''; and

■ f. By removing under the United Arab Emirates, two Emirati entities, ''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)''; and ''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)''.

Dated: March 24, 2017.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

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POSTAL SERVICE

39 CFR Part 501

Revisions to the Requirements for Authority To Manufacture and Distribute Postage Evidencing Systems

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is making further revisions to the rules concerning PC postage payment methodology. This change adds supplementary information to clarify the revenue assurance requirements.

DATES: *Effective date:* August 1, 2017.

FOR FURTHER INFORMATION CONTACT: Alfred Rodriguez, Jr., Industry Liaison, Payment Technology, U.S. Postal Service, (202) 268–5022.

SUPPLEMENTARY INFORMATION: On July 17, 2015, the United States Postal Service published a final rule to revise the rules concerning authorization to manufacture and distribute postage evidencing systems, and to reflect new revenue assurance practices (80 FR 42392). Postage collection under the new rules will start on August 1, 2017. On September 6, 2016, the Postal Service published a proposal for further revisions to the rules concerning revenue assurance in 39 CFR 501.16 to support our efforts to collect the appropriate revenue on mail pieces in a more automated fashion (81 FR 61159). If adopted, these additional changes were also to be implemented on August 1, 2017.

In response to this further proposal, the Postal Service received a number of comments from the mailing industry. The Postal Service appreciates all of the comments that were provided, and has, where appropriate, modified the proposed rules in response. The industry comments and corresponding Postal Service responses are outlined as follows.

Summary of Industry Comments and USPS Responses

Industry Comment: Because PC Postage providers (as defined in paragraph 501.16(i)(1)) are being asked to perform revenue assurance functions that the Postal Service would otherwise have to perform, PC Postage providers should be compensated for the costs imposed by the new system.

USPS Response: The Postal Service has previously stated to the industry that there will be no compensation for costs imposed by the new system. These rules are narrowly tailored to resolve current revenue collection challenges posed by the PC Postage program. Serving as a PC Postage provider is a choice and a privilege. The Postal Service is providing notice to the industry that compliance with these rules is a necessary condition of serving as an authorized PC Postage provider, and there will be no compensation for implementing or maintaining necessary infrastructure to support the revenue assurance program.

Industry Comment: The Postal Service should seek to minimize the costs imposed by the new system, including by permitting monthly payments and reconciliations.

USPS Response: The Postal Service has sought to minimize costs by designing the system to take advantage of existing processes whenever possible. For example, the requirements will be phased in through the use of a postage adjustment threshold amount. While the PC Postage providers and their customers are adjusting to the revenue assurance program, the Postal Service will initially adopt appropriate threshold amounts to support the success of the program. The Postal Service will thereafter reduce the threshold amount as the Postal Service deems appropriate based on data and trends.

With respect to allowing certain PC Postage providers to aggregate and reconcile postage adjustments (as defined in paragraph 501.16(i)(2)(i)) on a monthly basis, the Postal Service does not agree with this approach and maintains that all collection and refund transactions and reconciliations must occur within the time frames set forth in paragraph 501.16(i)(2)(iii) . Currently, all postage payments in existing systems are reconciled daily; since we are taking advantage of existing processes it makes sense to reconcile the adjustments daily or else entire new processes would need to be put in place. Moreover, permitting payment plans or partial payments for certain PC Postage providers would only complicate the adjudication and reconciliation processes and put burdens on both of our accounting and finance teams.

Industry Comment: PC Postage providers should not be required to adjudicate disputed postage assessments.

USPS Response: The Postal Service acknowledges that the PC Postage providers cannot adjudicate disputes; the PC Postage providers, however, need to be the first line of interaction with their customers and educate them on root causes of short-paid assessments and how to avoid them in the future. Initially, the Postal Service will have a customer care center dedicated exclusively to this program, as we understand customers will need to adjust to our new policies and processes with respect to assessing postage in an automated manner.

Industry Comment: The definition of a reseller should be further clarified. The proposed rule confuses the definition of a PC Postage provider by inconsistently expanding the definition in a way that would capture some (but not all) postage resellers.

USPS Response: The definition of *reseller* in paragraph 501.16(i)(1) represents the current position of the Postal Service, that only resellers who pay postage directly to the Postal Service (and not through a PC Postage provider) shall be treated as a PC Postage provider under the regulations. Certain resellers are authorized to pay postage directly to the Postal Service instead of through a PC Postage provider, provided that they comply with certain processes and requirements that are akin to the processes and requirements that are imposed on PC Postage providers. Accordingly, such resellers already are treated separately in several ways. For example, they are required to submit transaction log files and comply with specific payment processes so that the Postal Service can reconcile and account for the payments. Since such resellers do not pay through a PC Postage provider, it is necessary that the reseller (and not the PC Postage provider) facilitate the collection and refund of postage adjustments under these regulations.

Industry Comment: The final rule should also clarify that ePostage and eVS labels are subject to the revenue assurance practices.

USPS Response: Each sales platform is unique and has different characteristics, including different price structures and acceptance procedures. The current application of revenue assurance for all platforms is varied, and predicated on what the Postal Service has deemed appropriate from a cost, risk, and workflow standpoint.

Industry Comment: Allowing reciprocal adjustments for overpayments is an improvement. Additionally, the final rule should clarify the process and timing for the Postal Service to reimburse PC Postage providers or customers for postage adjustments in connection with overpayments. Proposed paragraph 501.16(i)(2)(iii)(C) states that the postage adjustment must be made within 60 days; the final rule should clarify that the Postal Service will provide payment within that time frame.

USPS Response: The Postal Service will issue refunds only in cases where

the customer has closed its Postage Evidencing System account. In all other cases, reimbursements for overpayments will be provided in the form of a credit to the Postage Evidencing System account or through a reconciliation performed by the PC Postage provider. We agree with this comment, and have clarified the process and time frames within this final rule.

Industry Comment: The account suspension processes needs to be clarified.

USPS Response: The Postal Service maintains that the suspension process is clear. When a PC Postage provider cannot immediately recover funds from a customer's account for any reason it must immediately suspend the customer's ability to produce postage until the postage adjustment has been paid in full. The customer can dispute any postage adjustments prior to or after making payment. The Postal Service maintains the discretion to instruct PC Postage providers to allow a customer to continue printing postage. Separately, the Postal Service reserves the discretion to compel PC Postage providers to suspend accounts upon request in certain instances, such as when fraud is suspected; this is a necessary function in support of revenue assurance. To satisfy due process concerns, the PC Postage providers are required to provide notice of the revenue assurance requirements, including the suspension terms, to their customers and ensure that the customers agree to the requirements before the customers complete another transaction.

Industry Comment: The process for changing the revenue assurance rules should be clarified.

USPS Response: The process and rules are described in the final rule. Any additional rules or updates, as needed, will be published in the **Federal Register** in accordance with paragraph 501.16(i)(2)(v).

Industry Comment: The indemnity provision is overbroad.

USPS Response: The Postal Service believes this provision is reasonable and appropriate. Serving as a PC Postage provider is a privilege, and companies that choose to participate in the PC Postage program are required to comply with certain rules that protect the Postal Service from legal, reputational and financial risk. A PC Postage provider that fails to comply with the rules should be liable for the damages the Postal Service suffers as a result of that failure.

Industry Comment: The proposed rule sets an unrealistic deadline for implementation before the solution has been fully defined and ready for implementation.

USPS Response: In response to this comment, the Postal Service has moved the implementation date to August 1, 2017. Any software that needs to be built should still be completed by the original implementation date of March 20, 2017, to allow ample time for a warning period. This is reasonable since the Postal Service has been working with all PC Postage providers for over two years on the planning and implementation of this project.

Industry Comment: PC Postage providers should not be liable to pay the short-paid or unpaid amounts in instances where providers are unable to collect.

USPS Response: The Postal Service agrees that as a general matter the customer, and not the PC Postage provider, should be held responsible for the postage adjustment. The PC Postage provider is responsible for either paying the adjustment or seeking to collect the postage adjustment from the customer and simultaneously prohibiting additional postage generation by said customer while postage is outstanding. The PC Postage provider must notify the customer of the details of the postage adjustment (including the dispute process), retain evidence that such notice was actually received by the customer, and attempt to collect the postage adjustment by adjusting the funds available to the customer in the Postage Evidencing System, or if funds are not available, facilitating customer payment by invoicing the customer or by pursuing other methods available to collect against the customer or access funds of the customer. Immediately upon receiving notice of the underpayment from the Postal Service, the PC Postage provider shall prohibit the customer from printing additional postage labels until the postage adjustment is satisfied or the customer disputes the adjustment and prevails. The final rule provides that the customer is responsible for short paid amounts except in certain cases where it is reasonable to hold the PC Postage provider accountable, such as in cases where the PC Postage provider caused the underpayment by incorrectly programming postage rates.

Industry Comment: Provisions that regulate marketing practices of providers fall outside the jurisdiction of the Postal Service.

USPS Response: Serving as a PC Postage provider is a privilege and comes with certain responsibilities that are aimed at protecting the Postal Service and customers. This provision is narrowly tailored to ensure that the PC Postage providers, when selling and marketing Postal Service products, comply with applicable laws and describe Postal Service products accurately. The purpose of this provision is to protect customers and limit the Postal Service's potential liability under consumer protection and other laws.

List of Subjects in 39 CFR Part 501

Administrative practice and procedure.

Accordingly, for the reasons stated, the Postal Service amends 39 CFR part 501 as follows:

PART 501—AUTHORIZATION TO MANUFACTURE AND DISTRIBUTE POSTAGE EVIDENCING SYSTEMS

■ 1. The authority citation for 39 CFR part 501 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 410, 2601, 2605, Inspector General Act of 1978, as amended (Pub. L. 95–452, as amended); 5 U.S.C. App. 3.

■ 2. In § 501.16, revise paragraph (i) to read as follows:

§ 501.16 PC postage payment methodology.

* * * * *

(i) *Revenue assurance.* (1) The PC Postage provider must support business practices to assure Postal Service revenue and accurate payment from customers. For purposes of this paragraph, *PC Postage provider* shall mean: *providers* who offer *PC Postage products* (as such terms are defined in § 501.1); Click-N-Ship® service; and postage resellers when such resellers transmit postage revenue to the Postal Service in any manner other than through a PC Postage provider. With respect to the reseller transactions described above, the resellers, and not the PC Postage providers who provide the labels, are responsible for complying with this paragraph. For the purpose of this paragraph, a *reseller* is an entity that obtains postage through a PC Postage provider and is authorized to resell such postage to its customers pursuant to an agreement with the Postal Service. For example, an entity that sells postage to its customers, but uses a PC Postage provider to enable its customers to print postage labels, is a reseller hereunder. If that entity collects postage revenue from its customers and transmits it to the Postal Service directly (instead of through the PC Postage provider) that entity shall be deemed a PC Postage provider hereunder. For the purpose of this paragraph, a *customer* is the person or entity that deposits the mail piece into the mail system. PC

Postage providers must comply with these revenue assurance requirements regardless of whether they have a direct relationship with the customer or sell postage to the customer through one or more resellers.

(2)(i) For the purposes of this paragraph, a *postage adjustment* is defined as the difference between the postage or fee actually paid to the Postal Service for a specific service, and the actual postage due to the Postal Service under the published or negotiated rate for that service, as applicable, which shall be calculated as of the time the mail piece is entered into the mailstream.

(ii) When the collection of a postage adjustment or the provision of a refund is appropriate because a customer has underpaid or overpaid the amount of postage that should have been paid, and such postage adjustment exceeds a threshold amount to be set by the Postal Service from time to time in its discretion, the PC Postage provider must, upon receiving notice from the Postal Service, pay, attempt to collect, or refund, as applicable, the postage adjustment in accordance with paragraph (i)(2)(iii) of this section. The Postal Service will supply the PC Postage provider with the details necessary to explain the correction and the amount of the postage adjustment to be used in the adjustment process. As part of this process, the PC Postage provider shall enable customers to submit disputes concerning the postage adjustment to the Postal Service, in a method approved by the Postal Service, including via phone call to the customer care center or API in the PC Postage provider's user interface of postage collections. In addition, the PC Postage provider must convey the Postal Service's dispute decision to the customer. If the Postal Service determines the customer's dispute was valid, and the customer had already paid the postage adjustment, the PC Postage provider must return the postage adjustment to the customer when notified by the Postal Service according to the rules set forth in paragraph (i)(2)(iii)(B) of this section.

(iii)(A) In the case of an underpayment that exceeds the threshold amount, within 14 business days of receiving notice of the underpayment from the Postal Service the PC Postage provider must pay the postage adjustment directly to the Postal Service, or seek to collect the postage adjustment from the customer in accordance with this paragraph. If the PC Postage provider opts to pursue collection activity, it must notify the customer of the details of the postage adjustment (including the dispute process), retain evidence that such notice was actually received by the customer, and attempt to collect the postage adjustment by adjusting the funds available to the customer in the Postage Evidencing System, or if funds are not available, facilitating customer payment by invoicing the customer or by pursuing other methods available to collect against the customer or access funds of the customer. If the customer has a Postage Evidencing System account, the PC Postage provider must process any refunds due to the customer under paragraph (i)(2)(iii)(B) of this section before processing any collections due to the Postal Service hereunder. If the PC Postage provider opts to pursue collection activity, it shall continue to make affirmative efforts to collect the postage adjustment from the customer until the postage adjustment is satisfied in whole or the collection period (as defined in paragraph (i)(2)(iii)(C) of this section) expires. Immediately upon receiving or securing access to funds of the customer, the PC Postage provider shall remit to the Postal Service any and all available funds from the customer's account from the Postage Evidencing System or that are otherwise recovered by the PC Postage provider to the extent necessary to satisfy the postage adjustment. The postage adjustment must be paid in full; no partial payments will be accepted by the Postal Service, except for payments made under paragraph paragraph (i)(2)(iii)(C) of this section.

(B) In the case of an overpayment that exceeds the threshold amount, the Postal Service shall within 14 business days of identifying the overpayment, provide notice of the postage adjustment to the PC Postage provider and instruct the PC Postage provider to give the customer a credit and adjust the funds available to the customer in the Postage Evidencing System. If the Postage Evidencing System account has been closed or for customers who do not have individual Postage Evidencing System accounts, the Postal Service shall instruct the PC Postage provider to issue a refund to the customer and the Postal Service shall either refund the postage adjustment to the PC Postage provider or permit the PC Postage provider to submit a reconciliation to the Postal Service. The PC Postage provider must immediately upon receiving notice of the overpayment from the Postal Service, notify the customer and, consistent with the Postal Service's instructions, adjust the funds available to the customer in the Postage Evidencing System, refund the postage adjustment to the customer, or provide a credit to the customer. If the PC Postage provider is unable to comply with the above requirements within 2 business days, the PC Postage provider must immediately notify the Postal Service.

(C) The *collection period* is a time period to be set by the Postal Service not to exceed 60 calendar days after initial notification by the Postal Service, subject to any applicable notification periods and dispute mechanisms that may be available to customers for these corrections. If an underpayment has not been satisfied within this collection period, the PC Postage provider shall adjust any funds available to the customer in the Postage Evidencing System to satisfy the postage adjustment to the greatest extent possible, and assist the Postal Service in its efforts to pursue any remedies that may be available in law or equity, including seeking payment directly from the customer.

(iv)(A) In the case of an underpayment that exceeds the threshold amount, immediately upon receiving notice of the underpayment from the Postal Service the PC Postage provider shall prohibit the customer from printing additional postage labels until the postage adjustment is satisfied in accordance with paragraph (i)(2)(iii)(A) of this section, or the customer disputes the adjustment and prevails. The Postal Service may, in its discretion, waive or delay this prohibition in specific instances.

(B) Separately, without regard to any threshold, in certain cases (such as where a customer is suspected of having intentionally or repeatedly underpaid postage) the Postal Service may, in its discretion, instruct the PC Postage provider to shut down temporarily or permanently a customer's ability to print PC Postage, and the PC Postage provider shall promptly comply with such instruction.

(C) In no event shall the Postal Service be liable to any PC Postage provider, customer or other party for any direct, indirect, exemplary, special, consequential, or punitive damages (including without limitation damages relating to loss of profit or business interruption) arising from or related to any customer's permanent or temporary inability to print postage labels in accordance with this paragraph (i)(2)(iv) or as a result of funds offset in accordance with this paragraph.

(v) The Postal Service, in its discretion, may adopt and modify from time to time, and the PC Postage providers shall comply with, business rules setting forth processes (including

time constraints) for payments, refunds, account suspensions, collections, notifications, dispute resolutions and other activities to be performed hereunder. Such business rules will be published in the **Federal Register**.

(3)(i) Without regard to any threshold, if the PC Postage provider incorrectly programmed postage rates, delayed programming postage rate changes, or otherwise provided systems or software which caused customers to pay incorrect postage amounts, then within two calendar weeks of the PC Postage provider being made aware of such error, the PC Postage provider shall:

(A) Correct the programming error;

(B) Provide the Postal Service with a detailed breakdown of how the error affected the PC Postage provider's collection of revenue; and

(C) Pay the Postal Service for the postage deficiency caused by the programming error, except in instances where the error was caused by the Postal Service or as a direct result of incorrect specifications provided by the Postal Service.

(4) The PC Postage provider is responsible for ensuring that:

(i) All customers pay (and the Postal Service receives) the current published prices that are available to customers who purchase postage through an approved PC Postage provider, or negotiated contracted prices where applicable in accordance with this paragraph; and

(ii) All payments to the Postal Service (or the log files necessary for the Postal Service to collect payments directly from customers) are complete and accurate and are initiated or transmitted, as applicable, to the Postal Service each day.

(5) Each PC Postage provider shall:

(i) Before each customer's first transaction following the implementation date of August 1, 2017, provide notice to such customer of the terms, conditions and processes described in this paragraph—including, without limitation, that the customer may be charged for deficient payments and prevented from printing additional postage labels while a postage adjustment remains unpaid—and obtain a certification from each customer that the customer has read, understands and agrees to such terms, conditions and processes, as they may be amended or supplemented from time to time;

(ii) Ensure that each customer certifies that it:

(A) Will comply with all laws and regulations applicable to Postal Service services, including, without limitation, the provisions of the Domestic Mail Manual and the International Mail Manual,

(B) Does not owe any money to the Postal Service and is not a controlling member or officer of an entity that owes money to the Postal Service, and

(C) Authorizes the PC Postage provider to disclose the customer's personal information to the Postal Service and such other information retained by the PC Postage provider that may enable the Postal Service to collect debts owed to it;

(iii) Maintain a complete and accurate record for each customer, which includes such customer's current name and a valid U.S. address that is sufficient for service of process under the law, as well as a copy of all terms agreed to by the customer and the date of such agreements;

(iv) Comply with applicable laws, rules, regulations and guidelines and ensure that its Postage Evidencing Systems, software, interfaces, communications and other properties that are used to sell or market Postal Service products accurately describe such products;

(v) Cover any costs or damages that the Postal Service may incur as a result of such PC Postage provider or its employees, contractors, or representatives failing to comply with the terms of this section, or any applicable law, regulation, rule, or government policy; and

(vi) In performing its obligations hereunder, comply with the business rules that shall be published in the **Federal Register** from time to time and provide all agreed-upon interface documentation (as updated from time to time).

(6) In the event that the Postal Service fails to exercise or delays exercising any right, remedy, or privilege under this paragraph, such failure or delay shall not operate as a waiver thereof or of any other provision hereof, nor shall any single or partial exercise of any right, remedy, or privilege preclude any further exercise of the same. The rights and remedies available to the Postal Service under this paragraph are cumulative and in addition to, and do not diminish, any rights or remedies otherwise available to the Postal Service.

Stanley F. Mires,

Attorney, Federal Compliance.

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Proposed Rules

Federal Register
Vol. 82, No. 59
Wednesday, March 29, 2017

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

FEDERAL ELECTION COMMISSION

11 CFR Part 110

[Notice 2017–09]

Candidate Debates

AGENCY: Federal Election Commission.

ACTION: Supplemental Notice of Disposition of Petition for Rulemaking.

SUMMARY: On February 1, 2017, the U.S. District Court for the District of Columbia ordered the Commission to reconsider its disposition of the Petition for Rulemaking filed by Level the Playing Field and to issue a new decision consistent with the Court's opinion. The Petition for Rulemaking asks the Commission to amend its regulation on candidate debates to revise the criteria governing the inclusion of candidates in presidential and vice presidential general election debates. In this supplement to the Notice of Disposition, as directed by the Court, the Commission provides further explanation of its decision to not initiate a rulemaking at this time.

DATES: March 29, 2017.

ADDRESSES: The petition and other documents relating to this matter are available on the Commission's Web site, *www.fec.gov/fosers* (reference REG 2014–06), and in the Commission's Public Records Office, 999 E Street NW., Washington, DC 20463.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Knop, Assistant General Counsel, or Ms. Jessica Selinkoff, Attorney, 999 E Street NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On September 11, 2014, the Commission received a Petition for Rulemaking from Level the Playing Field (''Petitioner'') regarding the Commission's regulation at 11 CFR 110.13(c). That regulation governs the criteria that debate staging organizations use for inclusion in candidate debates. The regulation, to prevent corporate spending on debates from constituting contributions to the participating candidates, requires staging organizations to ''use pre-established objective criteria to determine which candidates may participate in a debate'' and further specifies that, for general election debates, staging organizations ''shall not use nomination by a particular political party as the sole objective criterion to determine whether to include a candidate in a debate.'' 11 CFR 110.13(c). The petition asks the Commission to amend 11 CFR 110.13(c) in two respects: (1) To preclude sponsors of general election presidential and vice presidential debates from requiring that a candidate meet a polling threshold in order to be included in the debate; and (2) to require sponsors of general election presidential and vice presidential debates to have a set of objective, unbiased criteria for debate participation that do not require candidates to satisfy a polling threshold. The petition included, in addition to legal arguments, reports and other evidence in support of its position.

Procedural History

The Commission published a Notice of Availability seeking comment on the petition on November 14, 2014. Candidate Debates, 79 FR 68137. The Commission received 1264 comments in response to that notice, including one from the Petitioner that included updated and additional factual submissions. On November 20, 2015, the Commission published in the **Federal Register** a Notice of Disposition in which it explained why it would not initiate a rulemaking. Candidate Debates, 80 FR 72616.

The Petitioner and others sued on the basis that the Commission's failure to initiate a rulemaking was arbitrary and capricious in violation of the Administrative Procedure Act. *See Level the Playing Field* v. *FEC,* No. 15–cv–1397, 2017 WL 437400 at *1 (D.D.C. Feb. 1, 2017) (citing 5 U.S.C. 706). On February 1, 2017, the U.S. District Court for the District of Columbia concluded that the Commission acted arbitrarily and capriciously by failing to thoroughly consider the presented evidence and explain its decision; the Court ordered the Commission to reconsider its disposition of the petition and issue a new decision consistent with the Court's opinion. *See id.* at *13. In particular, the Court concluded that the Commission had not adequately addressed evidence concerning the 15% vote share polling threshold used by the Commission on Presidential Debates (''CPD'') as a criterion for inclusion in presidential general election debates. *See id.* at *12 (noting that ''for thirty years [CPD] has been the only debate staging organization for presidential debates'' and concluding that Commission had arbitrarily ignored evidence particular to CPD's polling criterion). The Court declined to ''take the extraordinary step of ordering promulgation of a new rule,'' but instead remanded for the Commission to ''give the Petition the consideration it requires'' and publish a new reasoned disposition or the commencement of rulemaking ''if the Commission so decides.'' *Id.* at *11, *13 (citing *Shays* v. *FEC,* 424 F. Supp. 2d 100, 116–17 (D.D.C. 2006)).

In accordance with the Court's instructions, the Commission has reconsidered the full rulemaking record. On the basis of this review, the Commission again declines to initiate a rulemaking to amend 11 CFR 110.13(c) at this time. The analysis below is intended to supplement, rather than replace, the analysis that the Commission provided in its original Notice of Disposition. 80 FR 72616.

Purpose and Requirements of Existing Candidate Debate Regulation

As the Commission stated in adopting the current candidate debate regulation in 1995, ''the purpose of section 110.13 . . . is to provide a specific exception so that certain nonprofit organizations . . . and the news media may stage debates, without being deemed to have made prohibited corporate contributions to the candidates taking part in debates.'' Corporate and Labor Organization Activity; Express Advocacy and Coordination with Candidates, 60 FR 64260, 64261 (Dec. 14, 1995).[1] Accordingly, the Commission has required that debate ''staging organizations use pre-

[1] *See also* Funding and Sponsorship of Federal Candidate Debates, 44 FR 76734 (Dec. 27, 1979) (explaining that, through candidate debate rule, costs of staging multi-candidate nonpartisan debates are not contributions or expenditures); 11 CFR 100.92 (excluding funds provided for costs of candidate debates staged under 11 CFR 110.13 from definition of ''contribution''); 11 CFR 100.154 (excluding funds used for costs of candidate debates staged under 11 CFR 110.13 from definition of ''expenditure'').

established objective criteria to avoid the real or apparent potential for a *quid pro quo,* and to ensure the integrity and fairness of the process.'' *Id.* at 64262. In discussing objective selection criteria, the Commission has noted that debate staging organizations may use them to ''control the number of candidates participating in . . . a meaningful debate'' but must not use criteria ''designed to result in the selection of certain pre-chosen participants.'' *Id.* The Commission has further explained that while ''[t]he choice of which objective criteria to use is largely left to the discretion of the staging organization,'' the rule contains an implied reasonableness requirement. *Id.* Within the realm of reasonable criteria, the Commission has stated that it ''gives great latitude in establishing the criteria for participant selection'' to debate staging organizations under 11 CFR 110.13.[2] First General Counsel's Report at n.5, MUR 5530 (Commission on Presidential Debates) (May 4, 2005), *http://eqs.fec.gov/eqsdocsMUR/000043F0.pdf.*

In the first major enforcement action under this regulation almost two decades ago, the Commission found that CPD's use of polling data (among other criteria) did not result in an unlawful corporate contribution, with five Commissioners observing that it would make ''little sense'' if ''a debate sponsor could not look at the latest poll results even though the rest of the nation could look at this as an indicator of a candidate's popularity.'' MUR 4451/4473 Commission Statement of Reasons at 8 n.7 (Commission on Presidential Debates) (Apr. 6, 1998), *http://www.fec.gov/disclosure_data/mur/4451.pdf#page=459.* Citing this statement, one court noted with respect to the use of polling thresholds as debate selection criteria that ''[i]t is difficult to understand why it would be unreasonable or subjective to consider the extent of a candidate's electoral support prior to the debate to determine whether the candidate is viable enough to be included.'' *Buchanan* v. *FEC,* 112 F. Supp. 2d 58, 75 (D.D.C. 2000). Nonetheless, the Commission has noted that while it cannot reasonably ''question[ ] each and every . . . candidate assessment criterion,'' it can evaluate ''evidence that [such a] criterion was 'fixed' or arranged in some manner so as to guarantee a preordained result.'' MUR 4451/4473 Commission Statement of Reasons at 8–9 (Commission on Presidential Debates).

[2] *See* Candidate Debates and News Stories, 61 FR 18049 (Apr. 24, 1996) (quoting H.R. Rep. No. 93–1239 at 4 (1974)).

The Arguments for Changing the Regulation

The petition and many of the comments supporting it essentially argue that CPD's 15% threshold is a non-objective criterion because it is unreliable and/or intended to unfairly benefit major party candidates at the expense of independent and third-party candidates. The Court summarized the petition's arguments as attempting to establish, first, that ''CPD's polling threshold is being used subjectively to exclude independent and third-party candidates'' and, second, that ''polling thresholds are particularly unreliable and susceptible to . . . subjective use at the presidential level, undermining the FEC's stated goal of using 'objective criteria to avoid the real or apparent potential for a *quid pro quo,* and to ensure the integrity and fairness of the process.' '' *Level the Playing Field,* 2017 WL 437400 at *12.

In essence, the petition argues that there are biases against third-party and independent candidates in accurate polling, and therefore that a polling threshold requirement like CPD's presents these candidates with a Catch-22 scenario:

> [A polling threshold] effectively institutionalizes the Democratic and Republican candidates as the only options with which the voters are presented. A third-party or independent candidate who is excluded from the debates loses the opportunity to take the stage against the major party nominees and demonstrate that he or she is a better alternative; the media does not cover the candidate; and the candidate does not get the public exposure necessary to compete. The ''determination'' that a [third-party or independent] candidate is not viable because he or she lacks a certain amount of support becomes a self-fulfilling prophecy.

Petition at 3. The petition argues that inclusion of independent and third-party candidates in presidential general election debates furthers voter education and voter turnout, which, the petition asserts, are policy purposes underlying the regulation.

Summary of Petition Evidence in Support of Changing the Regulation

In support of the argument that polling thresholds have the purpose or effect of favoring major party candidates over third-party or independent candidates, the petition presents facts and analysis regarding the name recognition required to poll at CPD's 15% threshold and the amount of money required to gain that level of name recognition. The petition provides further factual submissions that, according to the petition, show that the unreliability of polling—both generally and with respect to independent and third-party candidates—renders the 15% threshold unattainable and unreasonable for independent and third-party candidates.

The crux of the petition's factual submissions consists of two reports that purport to show that CPD's 15% threshold is designed to result in the exclusion of independent or third-party candidates. The first report, by Dr. Clifford Young, concludes that in order to reach a 15% threshold, a candidate must achieve name recognition among 60–80% of the population.[3] The second, by Douglas Schoen, estimates that the cost to a third-party or independent candidate of achieving 60% name recognition would be over $266 million, including almost $120 million for paid media content production and dissemination, which the report concludes is not a reasonably reachable figure for a non-major-party candidate.[4] Additionally, both the Young and Schoen reports conclude that polling in three-way races is inherently unreliable and not, therefore, an objective measure of the viability of third-party and independent candidates. In reaching their conclusions, both the Young and Schoen reports assert that third-party and independent candidates are disadvantaged by the fact that they do not benefit from a ''party halo effect'' by which Democratic and Republican candidates—regardless of name recognition—may garner a minimum vote share in polling merely for being associated with a major party, in addition to benefitting from increased name recognition from media coverage of the major party primary season.[5]

The Commission's Assessment of the Petition's Factual Submissions

1. Submissions Regarding Whether a 15% Threshold Cannot Be Attained by (and Therefore Excludes) Independent and Third-Party Candidates

The Young Report's conclusion that third-party and independent candidates require a 60–80% name recognition to meet CPD's 15% threshold does not provide a persuasive basis for changing the candidate debate regulation. Dr. Young acknowledges that his report's analysis is one-dimensional; it correlates polling results to name recognition alone, and then it draws conclusions regarding hypothetical third-party candidate performance based on that one factor. More

[3] Petition Ex. 3 (''Young Report'').

[4] Petition Ex. 11 (''Schoen Report'').

[5] *See* Young Report at ¶¶ 21–22.

specifically, Dr. Young acknowledges that polling results are not merely a function of name recognition—they are a much more complex confluence of factors. *See* Young Report at ¶¶ 10, 20(d) (listing other factors, beyond name recognition, affecting candidate vote share, including ''fundraising, candidate positioning, election results, and idiosyncratic events''); *see also* Nate Silver, *A Polling Based Forecast of the Republican Primary Field,* FiveThirtyEight Politics (May 11, 2011) (attached to Petition as Exhibit 20) (noting that, more than name recognition, ''laying the groundwork for a run quite early on,'' including efforts to ''hire staff, cultivate early support, brush up [ ] media skills,'' predicts later vote share success). Due to the Young Report's focus on this one correlative factor, the report does not purport to establish any causative effect between name recognition and vote share, and it does not account for how external forces apart from name recognition—such as fundraising, candidate positioning, election results, and idiosyncratic events—may influence vote share. For example, the report does not take into consideration forces that might increase the vote share of an otherwise unfamiliar independent candidate—such as high unfavorable ratings among major party candidates—or forces that might decrease the vote share of an independent candidate who has become well-recognized—such as policy preferences or political missteps. Because it largely omits analysis of all other factors beyond name recognition, the Commission is not persuaded that the Young Report's conclusions are a sufficient basis on which to determine that a 15% polling threshold is so inherently unreachable by non-major-party candidates that the Commission should provide that sponsors of general election presidential debates must be *prohibited as a matter of law* from using it in order to fulfill the statutory prohibition on corporate contributions.

Moreover, even within the confines of name recognition, the Young Report is only weakly applicable to the debates at issue, which are presidential general election debates. The Young Report reaches its 60–80% name recognition result through three models, all of which extrapolate from data about name recognition of major party candidates at the early stages of the party primary process (*i.e.,* before the Iowa caucuses) because, the report explains, ''party halo effects'' may be lower during early primary polling. Young Report at ¶ 22. The decision to measure name recognition at this extraordinarily early stage in all three models, even if only in part, may amplify polling errors, which the report notes are higher earlier in the election cycle than during the later ''election salience'' period—from one day to several months before election day—during which people start paying more attention to the election. *Id.* at ¶¶ 43(g), (i). Additionally, the use of the early party primary stage as the point of comparison for third-party or independent candidates' name recognition in September does not address or account for differences in the size of the candidate fields at those points in time. Thus, the Young Report's observations regarding early primary candidates provide little or no persuasive evidence as to the effect of a polling threshold on presidential general election candidates.

In addition, the petition appears to draw inapposite conclusions from the Young Report's data. Critically, neither the Young Report nor other evidence submitted with the petition or comments establishes that third-party or independent candidates do not or cannot meet 60–80% name recognition. In fact, at least one third-party candidate was reported to achieve over 60% name recognition in the most recent presidential campaign prior to the general election debates. *See Poll Results: Third Party Candidates,* YouGov (Aug. 25–26, 2016), *available at https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/wc35k48hrs/tabs_HP_Third_Party_Candidates_20160831.pdf* (showing Gary Johnson and Jill Stein having 63% and 59% name recognition among registered voters, respectively). Thus, there is no information in the rulemaking record showing that 60–80% name recognition is a prohibitively high bar for independent candidates. In other words, even if the Commission were to assume *arguendo* that 60–80% name recognition correlates with 15% vote share, there is no information in the record demonstrating that these thresholds inherently function to exclude third-party or independent candidates because of their party status.

Instead, the petition uses Dr. Young's name recognition threshold as a springboard to the primary argument of the Schoen Report: That the cost of achieving 15% vote share is prohibitively high for independent candidates. The Schoen Report starts from the premise that 60–80% name recognition is necessary to gain a 15% vote share and proceeds to estimate the amount of money that an independent candidate would need to spend to reach 60–80% name recognition. For the reasons stated above, the Commission does not find that this premise is adequately established by the Young Report, and therefore the Commission questions whether the Schoen Report possesses any meaningful evidentiary value. But even assuming that a candidate must reach 60–80% name recognition to achieve a 15% threshold in vote share, the Commission finds the Schoen Report not to provide a reasoned evidentiary basis for amending the rule at issue.

The Commission is unpersuaded by the Schoen Report primarily because the report builds its conclusion through an extensive series of unsupported suppositions and assertions. For example, to explain a significant portion of its calculations, the report states that ''the media will not cover an independent candidate until they are certainly in the debates.'' Schoen Report at 3. But the report provides no basis for this assertion other than an unexplained reference to the number of publications ''follow[ing]'' one particular candidate (*id.* at 5), and the Commission is aware of at least three non-major-party candidates who did not participate in the general election debates but received significant media attention in 2016.[6]

In another premise that the report uses to build its later conclusions, the Schoen Report asserts that independent candidates are disadvantaged because they ''must resort to launching a massive national media campaign'' while major party candidates ''by competing in small state primaries, can build their name recognition without

[6] Searches of the Thompson Reuters Westlaw ''Newspaper'' database for mentions in 2016 of independent and third-party 2016 presidential candidate names (''Gary Johnson,'' ''Jill Stein,'' and ''Evan McMullin'') show thousands of results. Moreover, the number of results for references to these independent candidates was comparable to the number of results for references to several major party candidates during comparable time periods. Using as a baseline the 277 days from the lead up to the first Republican party primary debate until Donald Trump was determined to be the presumptive nominee (August 1, 2015, to May 4, 2016), and the similar 277-day period of September 4, 2015 (before the first Democratic primary debate) to June 7, 2016 (when Hillary Clinton became the presumptive Democratic nominee), the Commission looked at mentions for independent candidates during the 277 days before the general election (February 5–November, 7, 2016). Those results show that Gary Johnson (with 3,001 results) was comparable to Bobby Jindal and Mike Huckabee (with 2,894 and 3,274 results, respectively); Jill Stein (with 1,744 results) was comparable to Rick Perry and Martin O'Malley (with 2,278 and 2,566 results, respectively); and Evan McMullin (with 353 results) was comparable to Lincoln Chafee, Jim Webb, and George Pataki (with 424, 521, and 937 results, respectively). And, while searches for Donald Trump's and Hillary Clinton's names returned significantly more results (7,451 and 7,404, respectively), those results were in line with other candidates who did not achieve high vote share in the party primaries, such as Jeb Bush with 7,102 results.

the costs of running a national campaign.'' *Id.* In support of this statement, the report states that ''Obama's 2008 victory in the Iowa caucuses catapulted him to national prominence.'' *Id.* In fact, polling expert Nate Silver has noted that ''contrary to the conventional wisdom, which holds that Barack Obama suddenly burst onto the political scene, the polling shows that he was already reasonably well-known to voters in advance of the 2008 primaries, largely as a result of his speech at the 2004 Democratic National Convention. His name was recognized by around 60 percent of primary voters by late 2006, and that figure quickly ramped up to 80 or 90 percent after he declared for the presidency in February, 2007.'' Nate Silver, *A Brief History of Primary Polling, Part II,* FiveThirtyEight (Apr. 4, 2011), *https://fivethirtyeight.com/features/a-brief-history-of-primary-polling-part-ii/.* The only other basis that the report provides for this portion of its conclusion is the statement that Senator Rick Santorum ''spent only $21,980 in [Iowa], or 73 cents per vote'' in 2012. Schoen Report at 5. It is not clear how the newspaper article cited by the report derived this figure, and Schoen (despite having access to all relevant financial data through the FEC's Web site) does not appear to have assessed its accuracy. In fact, reports filed with the Commission for the period ending three days before the Iowa caucus show that Senator Santorum made disbursements of $1,906,018. Rick Santorum for President, FEC Form 3P at 4 (Jan. 31, 2012), *http://docquery.fec.gov/pdf/317/12950383317/12950383317.pdf.* While not all of these disbursements were targeted to Iowa, the candidate's total spending in relation to the caucuses in that state was far higher than $21,980. Even looking at only reported disbursements to Iowa payees (and, therefore, not including payments to media buyers and others outside of Iowa for activities targeted towards Iowa), the filings shows that Santorum spent over $112,000 in Iowa between October 1 and December 31, 2011, for purposes including rent, payroll, lodging, direct mail, advertising, communication consulting, and coalition building. *Id.* Thus, the Schoen Report's use of unexplained second-hand analysis undercuts its credibility, and the facts demonstrated by the public record give the Commission reason to doubt the Schoen Report's calculations regarding any extra benefit major party primary candidates receive from their media expenditures.

In addition, the Schoen Report states that media costs to accomplish 60% name recognition are higher in three-way races due to increased competition, and the report increases its cost estimate accordingly.[7] But the 60% figure is apparently drawn from the Young Report, which, as discussed above, addresses the very earliest stages of major party primaries. Like the Young Report, the Schoen Report does not explain why or how this 60% figure can be extrapolated from early major party primaries to three-way general elections.

The Schoen Report ultimately adopts an estimated cost of at least $100 million for a media buy that an independent candidate would require to gain the name recognition to meet the 15% threshold. Schoen Report at 6. Not only does this figure rely upon the faulty assumptions that the Commission has already noted, it is also unreliable for at least four additional reasons.

First, the $100 million figure is taken from an estimate from ''a leading corporate and political media buying firm,'' without any underlying data and without any explanation of the circumstances under which the firm purportedly offered that estimate. Nor does the report address (or even acknowledge) any biases in that estimate that may stem from a media buying firm's financial interest in estimating or promoting high media buy costs. The Schoen Report simply provides no evidentiary basis for the Commission to credit this third-person estimate.

Second, the $100 million estimate presumes that a candidate must go from zero percent name recognition to 60% name recognition, without noting the likelihood of a candidate starting from zero or otherwise explaining this assumption. The Schoen Report suggests, by consistently comparing the hypothetical independent candidate's position with the positions of his ''two'' (and only two) major party candidate competitors, that this zero percent baseline occurs at some point after the major parties have established presumptive nominees. *See, e.g.,* Schoen Report at 10–11 (discussing ''the two major party campaigns'' with whom hypothetical independent candidate needing 60% name recognition will be competing for ad buy time); *id.* at 15 (same). A hypothetical situation in which a person with zero percent name recognition decides to run for president in approximately June of the election year and must raise name recognition from nothing to 60% within the three months before CPD looks at polls in September is unrelated to the realities of presidential elections. Presidential candidates—major party and third-party alike—generally begin campaigning a full year or more before the election, *see, e.g.,* Jill Stein, FEC Form 2 (July 6, 2015) (declaring candidacy for president in 2016 election cycle), and they rarely start with zero name recognition, *see, e.g.,* Petition Ex. 13 (Gallup report showing 11 candidates (including Libertarian Gary Johnson) with over 10% name recognition in January 2011). The Schoen Report's scenario—and the conclusions that the report draws from it—therefore provides no persuasive support for the petition's assertion that the candidate debate regulation must be revised.

Third, the Schoen Report bases its estimate of campaign and paid media costs on the assertion that independent candidates are unable to attract news media coverage. *See* Schoen Report at 4. But the report's assertion, based primarily on research published in 1999,[8] seems particularly antiquated in the age of digital and social media. *See* Farhad Manjoo, *I Ignored Trump News for a Week. Here's What I Learned,* NY Times, Feb. 22, 2017, *https://www.nytimes.com/2017/02/22/technology/trump-news-media-ignore.html* (discussing news media coverage during and since 2016 presidential election campaign in light of social media pressures). The Commission declines to promulgate rules that will govern the 2020 presidential election and beyond on the basis of opinions that are premised on such obsolete data.

Fourth, the Schoen Report's media cost estimates do not appear to take account of media purchases in support of a candidate by outside groups, including independent expenditure-only political committees (''IEOPCs''). IEOPCs may create, produce, and distribute communications in support of, but independently of, a particular candidate, and in 2016 several IEOPCs supported third-party candidate Gary

[7] Schoen Report at 3; *see also id.* at 10 (asserting, without supporting data or sources, that costs will likely be ''significantly'' higher ''in an election year featuring three viable candidates'' and, therefore, adding 5% premium to report's earlier cost estimates).

[8] Schoen Report at 4 (citing Paul Herrnson & Rob Faucheux, *Outside Looking In: Views of Third Party and Independent Candidates,* Campaigns & Elections (Aug. 1999)). The assertion also appears to be in tension with the statutory exclusion of the news media coverage from legal treatment as campaign spending. *See* 52 U.S.C. 30101(9)(B)(i) (excluding ''any news story . . . distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical'' from definition of ''expenditure'').

Johnson in just that way.[9] In addition, IEOPCs may raise unlimited funds from individuals and from sources, like corporations, otherwise prohibited under the Federal Election Campaign Act, 52 U.S.C. 30101–46. Thus, the existence and rise of IEOPCs undermine the Schoen Report's assumptions about the amount of the average contribution to a candidate, as well as the report's extrapolations about the number of individual contributions needed and total sum necessary to reach Dr. Young's 60–80% name recognition threshold. *See* Schoen Report at 24–25 (estimating third-party candidate's ''hypothetical average donation'' on basis of ''assumption for average donation'' of ''plurality'' of Obama and Romney contributors under $2600 maximum).

Ultimately, the unreliability of the Schoen Report's conclusions is most clearly demonstrated by the fact that third-party candidate Gary Johnson reached 60% name recognition by August 31, 2016.[10] In the 2016 election cycle through August 31, Johnson had spent almost $5.5 million; this amount represents total disbursements for all purposes, including, but not limited to, media buys.[11] According to the Schoen Report, such a result should have been impossible: Johnson should not have been able to achieve 60% name recognition until he spent at least $266 million—fifty times more than he actually did.[12]

For all of the foregoing reasons, the Commission finds the Schoen Report unpersuasive.

Finally, the petition acknowledges that a number of third-party presidential candidates have performed sufficiently well that they were included or would have been included in debates with 15% thresholds. *See* Petition at 15–16. Indeed, the petition notes that as many as six candidates would apparently have satisfied this requirement at some point during their campaigns: Roosevelt in 1912, LaFolette in 1924, Thurmond in 1948, Wallace in 1968, Anderson in 1980, and Perot in 1992. *Id.* The petition asks the Commission to categorically disregard these examples because they predate the Internet, and in some cases, the television. Petition at 16.[13] As discussed above, the Commission agrees that pre-Internet candidacies provide only a relatively weak basis assessing how easy or difficult it would be for candidates to achieve 15% vote share in a modern election. But to the extent that the availability of Internet communication has changed this calculus, the Commission notes that advertising on the Internet can cost significantly *less* money than advertising in more traditional media that was available to those pre-Internet independent candidates. *See, e.g.* Internet Communications, 71 FR 18589, 18589 (Apr. 12, 2006) (describing Internet as ''low-cost means of civic engagement and political advocacy'' and noting that Internet presents minimal barriers to entry compared to ''television or radio broadcasts or most other forms of mass communication''); Associated Press, *Here's How Much Less than Hillary Clinton Donald Trump Spent on the Election,* Fortune (Dec. 9, 2016), *http://fortune.com/2016/12/09/hillary-clinton-donald-trump-campaign-spending/* (comparing Hillary Clinton's ''more traditional'' television-heavy advertising strategy in campaign's last weeks—$72 million on TV ads and about $16 million on Internet ads—with Donald Trump's ''nearly $39 million on last-minute TV ads and another $29 million on digital''); *see also* Bill Allison *et al., Tracking the 2016 Presidential Money Race,* Bloomberg Politics (Dec. 9, 2016), *https://www.bloomberg.com/politics/graphics/2016-presidential-campaign-fundraising/* (noting that Trump's spending to ''target[ ] specific groups of Clinton backers with negative ads on social media to lower Democratic turnout . . . may have been a factor in Trump's performance in battleground states'').

In sum, the Commission concludes that the petition does not present credible evidence that a 15% threshold is so unobtainable by independent or third-party candidates that it is *per se* subjective or intended to exclude them.

2. Submissions Regarding Whether Polls are Unreliable and Systematically Disfavor Independent and Third-Party Candidate

The Young Report's examination of polling error in three-way races with independents seeks to determine, essentially, if the threshold is drawn in the right place to identify candidates that actually have a 15% vote share. Young Report at ¶ 60. The Young Report concludes that polls in three-way races have greater errors than polls in two-way races. Specifically, the Young Report extrapolates from gubernatorial election polls taken two months before the general election (the point at which CPD uses polls as a debate inclusion criterion) where there is an 8% error rate in three-way races compared to a 5.5% error rate in two-way races. *Id.* at ¶¶ 52–56. Adjusting for the fact that gubernatorial race polling is ''more error prone'' than presidential race polling, the Young Report concludes that the applicable error rate is 6.04%. *Id.* at ¶¶ 57–58. The Young Report continues to extrapolate the effect of this error on candidates, such as independent or third-party candidates, that poll close to the 15% threshold; for these candidates, the Young Report concludes that there is an approximately 40% chance that a third-party or independent candidate who holds the support of 15% of the population would be excluded. *Id.* at ¶¶ 59–66.

The Commission is unpersuaded by this analysis for two fundamental reasons. First, as the Commission noted in its original notice of disposition, the fact that polling data can be erroneous does not mean that a debate staging organization acts subjectively in using it. 80 FR at 72618 n.6. By way of analogy, consider a school district with a policy of canceling school if a majority of local television news stations predict at least six inches of snow for the next day. That policy would be facially objective, even though such weather forecasts are known to be significantly

[9] *See* Open Secrets, *Independent Expenditures, Gary Johnson, 2016 cycle, https://www.opensecrets.org/pres16/outside-spending?id=N00033226* (listing six ''Super PACs'' or IEOPCs supporting Johnson, two of which spent over $1 million in support) (last visited Feb. 24, 2017).

[10] *See* Ariel Edwards-Levy, *Third-Party Candidates are Getting a Boost in Name Recognition,* Huffington Post (Aug. 31, 2016) (noting Johnson's name recognition); *Poll Results: Third Party Candidates,* YouGov (Aug. 25–26, 2016), *available at https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/wc35k48hrs/tabs_HP_Third_Party_Candidates_20160831.pdf* (showing Gary Johnson and Jill Stein having 63% and 59% name recognition among registered voters, respectively).

[11] *See* Gary Johnson 2016, FEC Form 3P at 3–4 (Sept. 20, 2016), *http://docquery.fec.gov/pdf/391/201609209032026391/201609209032026391.pdf* (showing receipts of $7,937,608 and disbursements of $5,444,704).

[12] The Young and Schoen Reports do not address a circumstance in which a candidate, like Gary Johnson, reaches at least 60% name recognition but does not reach a 15% threshold. The Commission notes, though, that this circumstance (in which name recognition does not translate to high vote share) might be explained by the other factors beyond name recognition that affect vote share, including ''fundraising, candidate positioning, election results, and idiosyncratic events,'' mentioned in the Young Report. *See* Young Report at ¶¶ 10, 20(d). Moreover, the circumstance in which name recognition does not translate to high vote share is not unique to third party candidates. *See* note 6, above (discussing Jeb Bush).

[13] The petition also asks the Commission to disregard the strong polling results of third-party or independent candidates, like George Wallace and John Anderson, who have a prior affiliation with a major political party. Petition at 15. The Commission is not persuaded that disregarding those polling results would be reasonable in the context of assessing, as required by the court, whether the CPD's 15% threshold under the current candidate debate regulation acts ''subjectively to exclude independent and third-party candidates,'' since the threshold would apply to all third-party and independent candidates, regardless of prior affiliation. *Level the Playing Field,* 2017 WL 437400 at *12.

inaccurate. The policy would be subjective only if the inaccuracy in the forecast were systematically biased for or against the condition being triggered (*e.g.,* if the local weather forecasters regularly used high-end estimates of snow to drive viewer interest). But this demonstrates the second reason the Commission is unpersuaded by the petition's submissions regarding polling unreliability: The petition provides no evidence that the polling error is biased in a manner specific to party affiliation, that is, that polling is biased *against* third-party or independent candidates. Indeed, the petition explicitly acknowledges that ''it [is] wholly unclear whether the polling over- or underestimate[s] the potential of the third party candidate.'' Petition at 19 (quoting Schoen Report at 28). Thus, the Commission concludes that the petition does not demonstrate that statistical errors in polling data render the use of such data subjective or show that it is intended to exclude third-party candidates.[14]

The petition does imply that third-party and independent candidates are at a disadvantage because ''there is no requirement that pollsters test third-party and independent candidates,'' and therefore the CPD might ''cherry pick from among the myriad polls that exist in order to engineer a specific outcome.'' Petition at 17–18. But the petition presents no evidence that such manipulation has ever occurred, and the Commission is unwilling to predicate a rule change on unsupported speculation of wrongdoing. A debate sponsor who took actions to manipulate the ''pre-established'' and ''objective'' selection criteria so as to ''select[ ] certain pre-chosen participants'' by cherry-picking polls that excluded other candidates would violate the existing rule. Corporate and Labor Organization Activity; Express Advocacy and Coordination with Candidates, 60 FR at 64262.

The petition further argues that lowering the polling threshold is insufficient to solve polling error problems. As an initial matter, the Commission notes that the Young Report does not conclude that any and all polling thresholds are unreliable. On this point, in addition to the Young and Schoen Reports discussed above, Petitioner cites an article from Nate Silver on Republican primaries for the conclusion that ''a simple poll does not capture a candidate's potential.'' Petition at 17 (citing Nate Silver, *A Polling Based Forecast of the Republican Primary Field,* FiveThirtyEight Politics (May 11, 2011) (attached to Petition as Exhibit 20)). The cited article, though, concludes what appears to be the opposite of the point for which it is cited; it starts by explaining that it will prove the author's contention that ''polls have enough predictive power to be a worthwhile starting point.'' Petition, Ex. 20. In fact, that article was part four of a four part series. The second sentence of part one of that series explained that the series was intended to show that ''national polls of primary voters—even [nine months] out from the Iowa caucuses and New Hampshire primary—do have a reasonable amount of predictive power in informing us as to the identity of the eventual nominee.'' Nate Silver, *A Brief History of Primary Polling, Part I,* FiveThirtyEight (Mar. 31, 2011), *https://fivethirtyeight.com/features/a-brief-history-of-primary-polling-part-i/.* Moreover, polls like those used in September by CPD are not ''inaccurate'' or ''unreliable'' simply because their assessments of vote share do not match the final vote share on Election Day; such polls are ''designed to measure the true level of public support at the time the poll is administered,'' not ''to measure the true level of public support on Election Day.'' Commission on Presidential Debates, Comment at Ex. 2 ¶ 20 (Declaration of Frank M. Newport, Editor-in-Chief, Gallup Organization) (Dec. 15, 2014), *http://sers.fec.gov/fosers/showpdf.htm?docid=310982.* As the Newport Declaration notes, ''there is no doubt that properly conducted polls remain the best measure of public support for a candidate . . . at the time the polls are conducted.'' *Id.* at Ex. 2 ¶ 21.

3. Submissions Regarding the Desirability of Expanding Debate Participation

The petition and most of the commenters who support it rely primarily on policy arguments that polling thresholds are inconsistent with the purposes of the existing regulations and that those purposes would be better served by, in essence, including more voices on the debate stage.[15] The Commission explained in its original Notice of Disposition why it was not persuaded by the petition's ''arguments in favor of debate selection criteria that

[14] Because this data, even as cited by the petition, does not show that the regulation should be amended, the Commission need not further assess the data's validity. Nonetheless, the Commission notes that there are significant structural differences between the state polls cited by Dr. Young and national presidential polls. *See, e.g.,* Young Report at ¶¶ 41 (explaining differences between reputable national and state or local polls, with respect to both number of interviews and margins of error), 57 (showing significant differences between state and federal polling at different points in time). Although Dr. Young adjusts the state-poll results before applying them to his national analysis, (*see id.* ¶ 58), the manner in which the adjustment is described leaves unexplained whether the adjustment accounts for all of the relevant differences between state and national polls.

The Petitioner also submitted in response to the Notice of Availability a comment with additional data concerning ''grossly inaccurate'' polling in 2014 midterm Senate and gubernatorial elections. Level the Playing Field, Comment at 1 (Nov. 26, 2014), *http://sers.fec.gov/fosers/showpdf.htm?docid=310980.* However, attachments to the comment note that ''midterm polling biases in Senate elections are far worse than in presidential elections.'' *Id.* at Exhibit A. And a chart created by the Petitioner for the comment shows that, of ten races with purportedly high polling errors in races without a ''viable third-party or independent candidate,'' the two races included in the chart with the lowest polling error are, in fact, the only two races that include a third-party or independent candidate. Compare Level the Playing Field, Comment at 3 (showing Georgia and North Carolina Senate races with the lowest final polling errors of those entries in chart) to Level the Playing Field, Comment at Exhibit C (showing Georgia and North Carolina Senate as only races included in chart that involved three-way race polling). For all of these reasons, the Commission is not persuaded that the Petitioner's submissions regarding state and Senate polls indicate any systematic, anti-third-party flaw in the polls at issue here, which are presidential general election polls.

[15] A substantial majority of the comments that the Commission received on the petition were cursory and consisted of a single sentence expressing support for the petition. *See, e.g.,* Comment by Amanda Powell, REG 2014–06 Amendment of 11 CFR 110.13(c) (Dec. 15, 2014) (''I support the petition.''), *http://sers.fec.gov/fosers/showpdf.htm?docid=310989.* Additionally, the League of Women Voters ''does not support amending the FEC regulation to preclude sponsors of general election presidential and vice presidential debates from requiring that a candidate meet a polling threshold in order to be included in the debate,'' but did generally support opening a rulemaking, though without supporting or proposing any specific proposal. Comment by League of Women Voters, REG 2014–06 Amendment of 11 CFR 110.13(c) (Dec. 15, 2014), *http://sers.fec.gov/fosers/showpdf.htm?docid=310985.* The comment did not, however, present any substantial justification for doing so. Moreover, such an open-ended inquiry was not the focus of the petition for rulemaking.

Another commenter, FairVote, indicated that it ''do[es] not oppose the use of polling as a debate selection criterion so long as candidates have an alternative means of qualifying for inclusion.'' *See* Comment by FairVote, REG 2014–06 Amendment of 11 CFR 110.13(c) (Dec. 15, 2014), *http://sers.fec.gov/fosers/showpdf.htm?docid=310974.* That commenter emphasized the Commission's recognition of the educational purpose of candidate debates and advocated that including additional candidates in debates would ''broaden the substantive discussion within the debates.'' *Id.* As explained *supra,* however, the main purpose of the *regulation* at issue is to clarify when money spent on debate sponsorship is exempt from the FECA's definition of ''contribution.'' The Commission's recognition of the educational value of debates does not alter its view that the determination of which candidates participate in a given debate should generally be left to the organizations sponsoring such events. *See supra.* In addition, while the Commenter supported Petitioner's proposed alternative to select a third debate participant based upon the number of signatures gathered to obtain ballot access, the existing rule already permits this alternative and thus amending the rule is not required to allow for that approach. *See id.*

would include more candidates in general election presidential and vice presidential debates.'' 80 FR at 72617. As the Commission explained, ''The rule at section 110.13(c) . . . is not intended to maximize the number of debate participants; it is intended to ensure that staging organizations do not select participants in such a way that the costs of a debate constitute corporate contributions to the candidates taking part.'' *Id.* That is the only basis on which the Commission is authorized to regulate in this area. The Commission has no independent statutory basis for regulating the number of candidates who participate in debates, and the merits or drawbacks of increasing such participation—except to the limited extent that they implicate federal campaign finance law — are policy questions outside the Commission's jurisdiction.

Conclusion

The evidence presented to the Commission in the petition and comments on the impracticability of independent candidates reaching the 15% threshold and on the unreliability of polling do not lead the Commission to conclude that the CPD's use of such a threshold for selecting debate participants is per se subjective, so as to require initiating a rulemaking to amend 11 CFR 110.13(c). While the reports by Dr. Young and Mr. Schoen, in addition to the historical polling and campaign finance data presented with the petition, demonstrate certain challenges that independent candidates may face when seeking the presidency, these submissions do not demonstrate either that the threshold is so high that only Democratic and Republican nominees could reasonably achieve it, or that the threshold is intended to result in the selection of those nominees to participate in the debates.

For all of the above reasons, in addition to the reasons discussed in the Notice of Disposition published in 2015, *see* Candidate Debates, 80 FR 72616, and because the Commission has determined that further pursuit of a rulemaking would not be a prudent use of available Commission resources, *see* 11 CFR 200.5(e), the Commission declines to commence a rulemaking that would amend the criteria for staging candidate debates in 11 CFR 110.13(c) to prohibit the use of a polling threshold to determine participation in presidential general election debates.

On behalf of the Commission,

Dated: March 23, 2017.

Steven T. Walther,

Chairman, Federal Election Commission.

[FR Doc. 2017–06150 Filed 3–28–17; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0961; Directorate Identifier 2011–NE–22–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Corporation Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2015–02–22, which applies to certain Rolls-Royce Corporation (RRC) model 250 turboprop and turboshaft engines. AD 2015–02–22 currently requires repetitive visual inspections and fluorescent-penetrant inspection (FPIs) on certain 3rd-stage and 4th-stage turbine wheels for cracks in the turbine wheel blades. Since we issued AD 2015–02–22, we determined that it is necessary to remove the 4th-stage wheels at the next inspection. We are also proposing to revise the applicability to remove all RRC turboprop engines and add additional turboshaft engines. This proposed AD would require repetitive visual inspections and FPIs of 3rd-stage turbine wheels while removing from service 4th-stage turbine wheels. We are proposing this AD to correct the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by May 15, 2017.

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2011–0961; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: John Tallarovic, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, 2300 E. Devon Ave., Des Plaines, IL 60018; phone: 847–294–8180; fax: 847–294–7834; email: *john.m.tallarovic@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this NPRM. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2011–0961; Directorate Identifier 2011–NE–22–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM because of those comments.

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

Discussion

On January 20, 2015, we issued AD 2015–02–22, Amendment 39–18090 (80 FR 5452, February 2, 2015), (''AD 2015–02–22''), for certain RRC 250–B17, –B17B, –B17C, –B17D, –B17E, –B17F, –B17F/1, –B17F/2, turboprop engines; and 250–C20, –C20B, –C20F, –C20J, –C20R, –C20R/1, –C20R/2, –C20R/4, –C20S, and –C20W turboshaft engines. Note that, for the purposes of this proposed AD, we now consider the RRC 250–C20S engine a turboprop engine. RRC engine type certificate data sheet No. E4CE, Revision 42, dated June 29, 2010, classifies it as a turboshaft engine, but then clarifies in Note 11 that it functions as a turboprop engine.

AD 2015–02–22 requires repetitive visual inspections and FPIs on certain

3rd-stage and 4th-stage turbine wheels. AD 2015–02–22 resulted from the determination that the one-time inspections required by AD 2012–14–06 (77 FR 40479, July 10, 2012) should be changed to repetitive inspections. We issued AD 2015–02–22 to prevent failure of 3rd-stage and 4th-stage turbine wheel blades, damage to the engine, and damage to the aircraft.

Actions Since AD 2015–02–22 Was Issued

Since we issued AD 2015–02–22, we determined that it is necessary to remove the 4th-stage wheels at the next inspection, before the scheduled life limit for these wheels. We also determined that the RRC turboprop engines are not susceptible to the unsafe condition and therefore do not require inspection or removal. We are, therefore, not including RRC turboprop engines in the applicability of this proposed AD. Additionally, we determined two additional part number turbine wheels are susceptible to the unsafe condition and are being included in this proposed AD.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would retain certain requirements of AD 2015–02–22. This proposed AD would revise the requirement for the initial inspection from 1,750 hours since last inspection (HSLI) to 1,775 hours since last visual inspection and FPI or before the next flight after the effective date of this AD, whichever occurs later. Based on discussions with the manufacturer, we found that 1,775 hours since last visual inspection and FPI is an appropriate interval. We are also requiring inspections for additional part number wheels: (P/N) RR30000236 for the 3rd-stage turbine wheel and P/N RR30000240 for the 4th-stage turbine wheel.

This proposed AD would continue to require repetitive inspections of 3rd-stage turbine wheels. This proposed AD would also require removing from service 4th-stage turbine wheels at a reduced life limit. In addition, this proposed AD would add RRC 250–C300/A1 and 250–C300/B1 turboshaft engines in the applicability.

Costs of Compliance

We estimate that this proposed AD affects 3,769 engines installed on airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect 3rd-stage wheels, part number (P/N) 23065818 or RR30000236.	1 work-hour × $85 per hour = $85.	$0	$85	$320,365
Replace 4th-stage wheel, P/N 23055944 or RR30000240.	0 work-hours × $85 per hour = $0.	$5,653 (pro-rated cost of part).	$5,653	$21,306,157

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 have 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 that the 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 to the extent that it justifies making a regulatory distinction, 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) 2015–02–22, Amendment 39–18090 (80 FR 5452, February 2, 2015), and adding the following new AD:

Rolls-Royce Corporation: Docket No. FAA–2011–0961; Directorate Identifier 2011–NE–22–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by May 15, 2017.

(b) Affected ADs

This AD replaces Airworthiness Directive (AD) 2015–02–22, Amendment 39–18090 (80 FR 5452, February 2, 2015).

(c) Applicability

This AD applies to Rolls-Royce Corporation (RRC) 250–C20, –C20B, –C20F, –C20J, –C20R, –C20R/1, –C20R/2, –C20R/4, –C20W, –C300/A1, and –C300/B1 turboshaft engines with either a 3rd-stage turbine wheel, part number (P/N) 23065818 or RR30000236, or a 4th-stage turbine wheel, P/N 23055944 or RR30000240, installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by in-service turbine wheel blade failures that revealed the need for changes to the inspections of certain 3rd-stage turbine wheels and removal from service of certain 4th-stage turbine wheels. We are issuing this AD to prevent failure of the 3rd-stage and 4th-stage turbine wheel blades, damage to the engine, and damage to the aircraft.

(f) Compliance

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

(1) Within 1,775 hours since last visual inspection and fluorescent-penetrant inspection (FPI) or before the next flight after the effective date of this AD, whichever occurs later:

(i) Remove 3rd-stage turbine wheels, P/N 23065818, and perform a visual inspection and an FPI on the removed turbine wheels for cracks at the trailing edge of the turbine blades, near the fillet at the rim.

(ii) Thereafter, re-inspect the affected turbine wheels every 1,775 hours since last inspection (HSLI).

(2) Within 2,025 hours after the effective date of this AD:

(i) Remove 3rd-stage turbine wheels, P/N RR30000236, and perform a visual inspection and an FPI on the removed turbine wheels for cracks at the trailing edge of the turbine blades, near the fillet at the rim.

(ii) Thereafter, re-inspect the turbine wheels every 2,025 HSLI.

(3) Any time the power turbine is disassembled, perform a visual inspection and an FPI on 3rd-stage turbine wheels, P/N 23065818 or P/N RR30000236, for cracks at the trailing edge of the turbine blades, near the fillet at the rim.

(4) Do not return to service any turbine wheels found to have cracks.

(5) Within 1,775 HSLI, or at the next engine shop visit, whichever occurs later, remove 4th-stage turbine wheels, P/N 23055944, from service.

(6) Within 2,025 HSLI, or at the next engine shop visit, whichever occurs later, remove 4th-stage turbine wheels, P/N RR30000240, from service.

(g) Definition

For the purpose of this AD, ''engine shop visit'' is the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine flanges, except that the separation of engine flanges solely for the purposes of transportation without subsequent engine maintenance does not constitute an engine shop visit.

(h) Alternative Methods of Compliance (AMOCs)

The Manager, Chicago Aircraft Certification Office, FAA, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(i) Related Information

For more information about this AD, contact John Tallarovic, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, 2300 E. Devon Ave., Des Plaines, IL 60018; phone: 847–294–8180; fax: 847–294–7834; email: *john.m.tallarovic@faa.gov.*

Issued in Burlington, Massachusetts, on March 17, 2017.

Thomas A. Boudreau,

Acting Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2017–06174 Filed 3–28–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0121]

RIN 1625–AA00

Safety Zone; Tall Ships Charleston, Cooper River, Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone on the waters of the Cooper River in Charleston, South Carolina. This proposed safety zone is necessary to provide for the safety of participant vessels, and the general public during Tall Ships Charleston, an event allowing for public tours of tall ships (large sailing vessels) from various countries while at the docks of Veterans Terminal on the Cooper River in Charleston, South Carolina. This rule is intended to prohibit persons and vessels from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Charleston 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 28, 2017.

ADDRESSES: You may submit comments identified by docket number USCG–2017–0121 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 Lieutenant Commander John Downing, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843) 740–3184, email *John.Z.Downing@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
E.O. Executive order
FR Federal Register
NPRM Notice of proposed rulemaking
Pub. L. Public Law
§ Section
U.S.C. United States Code
COTP Captain of the Port

II. Background, Purpose, and Legal Basis

On December 1, 2016, Tall Ships Charleston notified the Coast Guard that they will be sponsoring the Tall Ships Charleston event on May 18, 2017 through May 21, 2017. Approximately 10,000 spectators are anticipated to participate in the public tours of tall ships (large sailing vessels) at the Veterans Terminal on the Cooper River in Charleston, South Carolina. The Captain of the Port Charleston (COTP) has determined that the potential hazards associated with public tours of these tall ships constitute a safety concern for anyone within the proposed safety zone. The purpose of the rule is to ensure the safety of life on the navigable waters of the Cooper River during the scheduled event. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

III. Discussion of Proposed Rule

The Coast Guard proposes to establish a temporary safety zone on the waters of the Cooper River in Charleston, South Carolina, during Tall Ships Charleston from May 18 through May 21, 2017. The duration of the safety zone is intended to ensure the safety of life on the navigable waters of the Cooper River at Veterans Terminal before, during, and after the schedule public touring event. No person or vessel would be permitted to enter, transit through, anchor in, or remain within the proposed 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. The Coast Guard will provide notice of the safety zone by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

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.

A. Regulatory Planning and Review

E.O.s 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. E.O.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 E.O. 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget.

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The economic impact of this rule is not significant for the following reasons: (1) Although persons and vessels may not enter, transit through, anchor in, or remain within the safety zone without authorization from the Captain of the Port Charleston or a designated representative, they may operate in the surrounding area during the enforcement period; and (2) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

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'' 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.

We have considered the impact of this proposed rule on small entities. This rule may affect the following entities, some of which may be small entities: the owner or operators of vessels intending to enter, transit through, anchor in, or remain within the regulated area during the enforcement period. For the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on a substantial number of small entities.

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 E.O. 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 E.O. 13132.

Also, this proposed rule does not have tribal implications under E.O. 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 above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such 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 prohibiting vessel traffic from a limited area surrounding the Veterans Terminal on the waters of the Cooper River for a 3 day period. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

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

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, 160.5; and Department of Homeland Security Delegation No. 0170.

■ 2. Add a temporary § 165.35T07–0121 to read as follows:

§ 165.T07–0121 Safety Zone; Tall Ships Charleston, Charleston, SC.

(a) *Location.* This rule establishes a temporary safety zone on certain waters of the Cooper River, Charleston, South Carolina. The temporary safety zone consists of navigable waters of the Cooper River which begin at the shoreline and extend 100 yards off of each pier located at Veterans Terminal.

(b) *Definition.* 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 Charleston in the enforcement of the regulated areas.

(c) *Regulations.*

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

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

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

(d) *Enforcement Period.* This proposed rule will be enforced from May 18, 2017 through May 21, 2017.

Dated: March 23, 2017.

G.L. Tomasulo,

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

[FR Doc. 2017–06188 Filed 3–28–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0123]

RIN 1625–AA00

Safety Zone, Tall Ships Charleston Parade Around the Harbor; Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary moving safety zone during the Tall Ships Charleston Parade Around the Harbor, a parade of ships occurring on the Cooper River and Charleston Harbor in Charleston, South Carolina. The temporary moving safety zone is necessary to protect participant vessels, spectators, and the general public during the event. This rule is intended to prohibit persons and non-participant vessels from entering, transiting through, anchoring in, or remaining within the moving safety zone unless authorized by the Captain of the Port Charleston 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 28, 2017.

ADDRESSES: You may submit comments identified by docket number USCG–2017–0123 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 Lieutenant Commander John Downing, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843) 740–3184, email *John.Z.Downing@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
E.O. Executive order
FR Federal Register
NPRM Notice of proposed rulemaking
Pub. L. Public Law
§ Section
U.S.C. United States Code
COTP Captain of the Port

II. Background, Purpose, and Legal Basis

On December 1, 2016, Tall Ships Charleston notified the Coast Guard that they will be sponsoring the Tall Ships Charleston Parade Around the Harbor from 2 p.m. to 5 p.m. on May 18, 2017. Approximately eight ships are anticipated to participate in the parade event, which will take place on certain navigable waters of the Cooper River and the Charleston Harbor in Charleston, South Carolina. The Captain of the Port Charleston (COTP) has determined that the potential hazards associated with the parade constitute a safety concern for anyone within the proposed moving safety zone. The purpose of the proposed rule is to ensure safety of life on the navigable water of the United States during the event. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

III. Discussion of Proposed Rule

The Coast Guard proposes to establish a temporary moving safety zone on the waters of the Cooper River and Charleston Harbor in Charleston, South

Carolina, during the Tall Ships Charleston Parade Around the Harbor, from 2 p.m. until 5 p.m. on May 18, 2017. The duration of the safety zone is intended to ensure the safety of life on the navigable waters of the Cooper River and Charleston Harbor during the parade. No vessel or person would be permitted to enter, transit through, anchor in, or remain within 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. The Coast Guard would provide notice of the safety zone by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

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 proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The economic impact of this proposed rule is not significant for the following reasons: (1) The safety zone would be enforced for only three hours; (2) the safety zone would move with participant vessels so that once the ships clear a portion of the waterway, the safety zone would no longer be enforced in that portion of the waterway; (3) although persons and vessels may not enter, transit through, anchor in, or remain within the safety zone without authorization from the COTP or a designated representative, they would be able to operate in the surrounding area during the enforcement period; (4) persons and vessels would still be able to enter or transit through the safety zone if authorized by the COTP or a designated representative; and (5) the Coast Guard would provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

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 a substantial number of small entities.

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 a temporary moving safety zone lasting three hours which would prohibit entry into, transit through,

anchoring within, or remaining within the safety zone during the parade event. 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 a temporary § 165.T07–0123 to read as follows:

§ 165.T07–0123 Safety Zone; Tall Ships Charleston Parade Around the Harbor, Charleston, SC.

(a) *Regulated area.* The rule establishes the following regulated area as a temporary moving safety zone: All waters 100 yards in front of the first parade vessel, 100 yards behind the last parade vessel, and 100 yards on either side of all Parade vessels. The Tall Ships Charleston Parade Around the Harbor consists of an eight mile course that starts near Fort Sumter in approximate position 32°45′25″ N./079°52′20″ W. and follows the shipping channel north, along the Cooper River ending at Veterans Terminal in approximate position 32°51′18″ N./079°56′57″ W.

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

(c) *Regulations.*

(1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area, except persons and vessels participating in the Tall Ships Charleston Parade Around the Harbor and those serving as safety vessels.

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

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

(d) *Enforcement period.* This rule will be enforced from 2 p.m. until 5 p.m. on May 18, 2017.

Dated: March 23, 2017.

G.L. Tomasulo,

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

[FR Doc. 2017–06187 Filed 3–28–17; 8:45 am]

BILLING CODE 9110–04–P

Notices

Federal Register
Vol. 82, No. 59
Wednesday, March 29, 2017

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Information Collection Request; Customer Data Worksheet Request for Business Partner Record Change

AGENCY: Farm Service Agency, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency (FSA) is requesting comments from all interested individuals and organizations on an extension with a revision of a currently approved information collection to support Customer Data Worksheet Request for Business Partner (BP) that contains the producer's personal information. Specifically, FSA is requesting comment on the form AD–2047, ''Customer Data Worksheet Request for Business Partner Record Change''. FSA is using the collected information in support of documenting critical producer data changes (customer name, current mailing address and tax identification number) in BP made at the request of the producer to correct or update their information. The critical producer data are being used to update existing producer record data and document when and who initiates and changes the record in BP.

DATE: We will consider comments that we receive by May 30, 2017.

ADDRESSES: We invite you to submit comments on this notice. In your comments, include date, volume, and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to: *www.regulations.gov.* Follow the online instructions for submitting comments.
- Kerry Sefton, Agricultural Program Specialist, USDA, FSA, STOP 0517, 1400 Independence Avenue SW., Washington, DC 20250–0517.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Copies of the information collection may be requested by contacting Kerry Sefton at the above address.

SUPPLEMENTARY INFORMATION:

Title: Customer Data Worksheet Request for Business Partner Record Changes.

OMB Control Number: 0560–0265.

Type of Request: Extension with a revision of currently approved information collection.

Abstract: The information collection is necessary to effectively monitor critical producer data changes made in BP at the request of the producer to correct or update their information. The form AD–2047, Customer Data Worksheet Request for Business Partner Record Change, is used to collect the information from the producer to make changes to the information in BP. The necessity to monitor critical producer data changes in the BP database is a direct result of the OMB Circular A–123 Remediation/Corrective Action Plan for County Office Operations which requires effective internal controls to be in place for Federal programs. FSA team was established and reviewed and documented key controls related to all material producer accounts. FSA also included the analysis on a review of BP.

The number of respondents increased by 5,179 to account for additional customers because of new programs that have been implemented since the last OMB approval.

For the following estimated total annual burden on respondents, the formula used to calculate the total burden hours is the estimated average time per response multiplied by the estimated total annual of responses.

Estimated Average Time to Respond: Public reporting burden for collection of this information is estimated to average 0.17 hours per response.

Type of Respondents: FSA, NRCS, and RD customers currently residing in BP.

Estimated Number of Respondents: 56,926.

Estimated Number of Responses per Respondent: 1.

Estimated Annual Number of Responses: 56,926.

Estimated Average Time per Response: 0.17.

Estimated Total Annual Burden Hours: 9,677.

We are requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of FSA, including whether the information will have practical utility;

(2) Evaluate the accuracy of FSA's estimate of burden 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.

All responses to this notice, including name and addresses when provided, will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Chris P. Beyerhelm,

Acting Administrator, Farm Service Agency.

[FR Doc. 2017–06144 Filed 3–28–17; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Information Collection Request; Disaster Assistance (General)

AGENCY: Farm Service Agency, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency (FSA) is requesting comments from all interested individuals and organizations on the extension with a revision of a currently approved information collection in support of Disaster Assistance programs. The information collection is needed to identify disaster areas and establish eligibility for both primary and contiguous counties for assistance from FSA. This assistance includes FSA emergency loans which are available to eligible and qualified farmers and ranchers. The total burden hours have been revised to reflect the number of

Secretarial requests for natural disaster assistance during the 2016 crop year.

DATES: We will consider comments that we receive by May 30, 2017.

ADDRESSES: We invite you to submit comments on this notice. In your comment, include the date and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Steve Peterson, Director, Production, Emergencies and Compliance Division, to Farm Service Agency, USDA, Mail Stop 0517, 1400 Independence Avenue SW., Washington, DC 20250–0517.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Copies of the information collection may be requested by contacting Steve Peterson at the above addresses.

FOR FURTHER INFORMATION CONTACT: Tona Huggins, (202) 205–9847.

SUPPLEMENTARY INFORMATION:

Description of Information Collection

Title: Disaster Assistance Program (General).

OMB Number: 0560–0170.

Expiration Date of Approval: 07/31/2017.

Type of Request: Extension with a revision.

Abstract: The information collection is necessary for FSA to effectively administer the regulations related to identifying disaster areas for the purpose of making emergency loans. This program is available to qualified and eligible farmers and ranchers who have suffered weather-related physical or production losses or both in such areas. Before emergency loans can become available, the information needs to be collected to determine if the disaster areas meet the criteria of having a qualifying loss in order to be considered as an eligible County.

The total burden hours have been revised to reflect the number of Secretarial requests for natural disaster assistance during the 2016 crop year.

For the following estimated total annual burden on respondents, the formula used to calculate the total burden hours is the estimated average time per response multiplied by the estimated total annual responses.

Estimate of Average Time To Respond: Public reporting burden for collecting information under this notice is estimated to average 0.435 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Farmers and ranchers.

Estimated Number of Respondents: 401.

Estimated Average Number of Responses per Respondent: 1.2.

Estimated Total Annual Responses: 492.

Estimated Average Time per Response: 0.435.

Estimated Total Annual Burden on Respondents: 214 hours.

We are requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of burden of the collection of information including the validity of the methodology and assumptions used;

(3) Evaluate the quality, utility and clarity of the information technology; and

(4) Minimize the burden of the information collection on those who respond through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses where provided, will be made a matter of public record. Comments will be summarized and included in the request for Office of Management and Budget approval.

Chris P. Beyerhelm,

Acting Administrator, Farm Service Agency.

[FR Doc. 2017–06143 Filed 3–28–17; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Eastern Region Recreation Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Eastern Region Recreation Resource Advisory Committee (Recreation RAC) will meet in Louisville, Kentucky. The Recreation RAC is authorized pursuant with the Federal Lands Recreation Enhancement Act (the Act) and the Federal Advisory Committee Act (FACA). Additional information concerning the Recreation RAC may be found by visiting the Recreation RAC's Web site at: *http://www.fs.usda.gov/main/r9/recreation/racs.*

DATES: The meeting will be held on:

- Thursday, April 20, 2017, from 8:15 a.m. to 5:00 p.m.
- Friday, April 21, 2017, from 9:00 a.m. to 4:30 p.m.

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

ADDRESSES: The meeting will be held on Thurday, April 20, 2017 on a field trip to the Hoosier National Forest and Friday, April 21, 2017 at the Holiday Inn Express & Suites Louisville Downtown, 800 West Market Street, Louisville, Kentucky. The meeting will also be available via teleconference. For anyone who would like to attend via teleconference, please visit the Web site listed in the **SUMMARY** section or contact the person listed under the **FOR FURTHER INFORMATION CONTACT** section.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses, when provided, are placed in the record and available for public inspection and copying. The public may inspect comments received at the Eastern Region Regional Office located at 626 East Wisconsin Avenue, Milwaukee, Wisconsin. Please call ahead at 541–860–8048 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Joanna Wilson, Eastern Region Recreation RAC Coordinator by phone at 541–860–8048, or by email at *jwilson08@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. Attend a field visit to the Hoosier National Forest to see some fee proposal sites including the Saddle Lake Recreation Area and German Ridge Campground.

2. Review the following fee proposals:

a. Monongahela National Forest fee proposals which include the Lake Sherwood Recreation Area;

b. Hoosier National Forest fee proposals at Saddle Lake Recreation Area and German Ridge Campground;

c. Ottawa National Forest fee proposals Camp Nesbit Organizational Camp, seasonal personal watercraft docking at Black River Harbor, Lake Ottawa Pavilion, Clark Lake Day-Use Buildings, Sylvania Backcountry Campsites, and a day-use pass that covers Black River Harbor Recreation, Lake Ottawa Recreation Area, and the Sylvania Recreation Area; and the

d. White Mountain National Forest fee proposals include the elimination of fees at nine trailheads including, 19—Mile Brook Trailhead, East Pond Trailhead, Greeley Pond Trailhead, Hale Brook Trailhead, Hancock Notch Trailhead, Sugarloaf Trailhead, Downes Brook Trailhead, Oliverian Brook Trailhead and Sawyer Pond Trailhead; increase the cost of a daily recreation pass to $5, an annual pass to $30, and eliminating the weekly and household passes; adding Zealand Picnic Area to the Forest Fee Program; increasing the fees Dolly Copp Pavilion; Russell Colbath Barn; Crocker Pond Campground; 4th Iron Campsites; Black Mountain Cabin; Doublehead Cabin; and Radeke Cabin.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less at the Friday portion of the meeting starting at 3:00 p.m. Individuals wishing to make an oral statement should request in writing by April 15, 2017, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the Recreation RAC may file written statements with the Committee's staff before or after the meeting. Written comments and time requests for time to make oral comments must be sent to Joanna Wilson, Eastern Region Recreation RAC Coordinator, 855 South Skylake Drive, Woodland Hills, Utah 84653; or by email to *jwilson08@fs.fed.us.*

MEETING ACCOMMODATIONS: If you require 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 9, 2017.

Jeannie M. Higgins,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2017–06140 Filed 3–28–17; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Deschutes Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Deschutes Provincial Advisory Committee (PAC) will meet in Bend, Oregon. The committee is authorized pursuant to the implementation of E–19 of the Record of Decision and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to provide advice and make recommendations to promote a better integration of forest management activities between Federal and non-Federal entities to ensure that such activities are complementary. PAC information can be found at the following Web site: *http://www.fs.usda.gov/detail/deschutes/workingtogether/advisorycommittees*.

DATES: The meeting will be held on April 21, 2017, from 9:00 a.m. to approximately 4:00 p.m.

All PAC 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 Deschutes County Services Building, DeArmond Room, 1300 Northwest Wall Street, Bend, Oregon.

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 Deschutes National Forest Headquarters Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Beth Peer, Deschutes PAC Coordinator, by phone at 541–383–4761 or via email at *bpeer@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. Discuss the broad topic of forest restoration,

2. Discuss how the PAC can develop strategies for continuing restoration work, including in the more specific areas:

a. Prescribed fire/smoke regulations, and

b. habitat restoration and enhancement for big game, and

c. Implementation of the sustainable road system;

3. Engage in specific issues surrounding sustainable recreation, and

4. Discuss the business of the PAC, such as:

a. The Re-chartering process and

b. Membership.

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, 2017, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Beth Peer, Deschutes PAC Coordinator, 63095 Deschutes Market Road, Bend, Oregon, 97701; or by email to *bpeer@fs.fed.us,* or via facsimile to 541–383–4755.

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 2, 2017.

Jeanne M. Higgins,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2017–06136 Filed 3–28–17; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Eastern Washington Cascades Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Eastern Washington Cascades Provincial Advisory Committee (PAC) will meet in Wenatchee, Washington. The committee is authorized pursuant to the implementation of E–19 of the Record of Decision and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to provide advice and make recommendations to promote a better integration of forest management activities between Federal and non-Federal entities to ensure that such activities are complementary. PAC information can be found at the following Web site: *http://www.fs.usda.gov/main/okawen/workingtogether/advisorycommittees.*

DATES: The meeting will be held on Wednesday, April 19, 2017, from 9 a.m. to 3 p.m.

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

ADDRESSES: The meeting will be held at the Okanogan-Wenatchee National Forest (NF) Headquarters Office, 215 Melody Lane, 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: Robin DeMario, PAC Coordinator, by phone at 509–664–9292 or by 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 meeting is to update members on the:

1. Forest Plan Revision Science Synthesis,
2. Travel Management Plan status,
3. North Cascades Smokejumper base capital investment, and
4. Collaborative Forest Landscape Restoration: Tapash Program update.

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 10, 2017, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Robin DeMario, PAC 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 7, 2017.

Jeanne Higgins,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2017–06141 Filed 3–28–17; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Sitka Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Sitka Resource Advisory Committee (RAC) will meet in Sitka, Alaska. 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://cloudapps-usda-gov.force.com/FSSRS/RAC_Page?id=001t0000002JcwXAAS.*

DATES: The meeting will be held April 20, 2017, at 5:00 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 Sitka Ranger District, Katlian Room, 2108 Halibut Point Road, Sitka, Alaska. Meeting will also be available by teleconference, to attend via teleconference, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Sitka Ranger District. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Lisa Hirsch, RAC Coordinator, by phone at 907–747–4214 or via email at *lisahirsch@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 discuss the:

1. Secure Rural Schools Program,
2. Title II of the Act, and
3. Project proposal submittals.

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 13, 2017, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Lisa Hirsch, RAC Coordinator, 2108 Halibut Point Road, Sitka, Alaska 99835; by email to *lisahirsch@fs.fed.us* or via facsimile to 907–747–4253.

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 7, 2017.

Jeanne Higgins,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2017–06138 Filed 3–28–17; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Resource Coordinating Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Forest Resource Coordinating Committee (Committee) will meet via teleconference. The Committee is established consistent with the Federal Advisory Committee Act of 1972 (FACA) and the Food, Conservation, and Energy Act of 2008 (the Act). Committee information can be found at the following Web site at *http://www.fs.fed.us/spf/coop/frcc/.*

DATES: The teleconference will be held on April 19, 2017, from 12:00 p.m. to 1:30 p.m., Eastern Standard Time (EST).

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

ADDRESSES: The meeting will be held via teleconference. For anyone who would like to attend the teleconference, please visit the Web site listed in the **SUMMARY** section or contact Scott Stewart at *sstewart@fs.fed.us* for further details.

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 placed on the Committee's Web site listed above.

FOR FURTHER INFORMATION CONTACT: Scott Stewart, Designated Federal Officer, Cooperative Forestry staff by phone at 202–205–1618, or via email at *sstewart@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. Report out from Committee work groups,
2. Deliver educational presentations, and
3. Perform administrative tasks.

The teleconference is open to the public. However, the public is strongly encouraged to RSVP prior to the teleconference to ensure all related documents are shared with public meeting participants. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should submit a request in writing by April 9, 2017, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Written comments and time requests for oral comments must be sent to Scott Stewart, 1400 Independence Avenue SW., Mailstop 1123, Washington, DC 20250; or by email to *sstewart@fs.fed.us.* A summary of the meeting will be posted on the Web site listed above within 21 days after the meeting.

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

Dated: March 7, 2017.

Jeannie M. Higgins,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2017–06135 Filed 3–28–17; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

New Mexico Collaborative Forest Restoration Program Technical Advisory Panel

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The New Mexico Collaborative Forest Restoration Program (CFRP) Technical Advisory Panel (Panel) will meet in Albuquerque, New Mexico. The Panel is established consistent with the Federal Advisory Committee Act of 1972 (5 U.S.C. App. II), and Title VI of the Community Forest Restoration Act (Pub. L. 106–393). Additional information concerning the Panel, including the meeting summary/minutes, can be found by visiting the Panel's Web site at: *http://www.fs.usda.gov/goto/r3/cfrp.*

DATES: The meeting will be held at 9:00 a.m. to 5:00 p.m., on the following dates:

- April 10, 2017,
- April 11, 2017, and
- April 12, 2017.

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

ADDRESSES: The meeting will be held at the Hyatt Place Albuquerque/Uptown, 6901 Arvada Avenue Northeast, Albuquerque, New Mexico.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses, when provided, are placed in the record and available for public inspection and copying. The public may inspect comments received at the Cooperative and International Forestry Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Walter Dunn, Designated Federal Official, USDA Forest Service, 333 Broadway Southeast, Albuquerque, New Mexico 87102, by phone at (505) 842–3425 or by email at *wdunn@fs.fed.us,* or via fax at (505) 842–3165.

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) Review Panel Bylaws, Charter, and what it means to be a Federal Advisory Committee,

(2) Evaluate and score the 2017 CFRP grant applications to determine which ones best meet the program objectives,

(3) Develop prioritized 2017 CFRP project funding recommendations for the Secretary,

(4) Develop an agenda and identify members for the 2017 CFRP Sub-Committee for the review of multi-party monitoring reports from completed projects, and

(5) Discuss the proposal review process used by the Panel to identify what went well and what could be improved.

The meeting is open to the public. Panel discussion is limited to Panel members and Forest Service staff. Project proponents may make brief presentations to the Panel summarizing their grant application and respond to questions of clarification from Panel members or Forest Service staff. However, the agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should submit a request in writing by April 6, 2017, to be scheduled on the agenda. Anyone who would like to

bring CFRP grant application review related matters to the attention of the Panel may file written statements with the Panel staff before or after each day of the meeting. Written comments and time requests for oral comments must be sent to the person listed under **FOR FURTHER INFORMATION CONTACT**.

A summary of the meeting will be posted on the Web site listed above within 45 days after the meeting.

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

Dated: March 16, 2017.

Jeanne M. Higgins,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2017–06130 Filed 3–28–17; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Siskiyou (OR) Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Siskiyou (OR) Resource Advisory Committee (RAC) will meet in Brookings, Oregon. 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: *https://www.fs.usda.gov/main/pts/specialprojects/racweb.*

DATES: The meeting will be held on the following dates and times:

- April 24, 2017, at 10:00 a.m. to 4:30 p.m., and
- April 25, 2017, at 8:30 a.m. to 4:30 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 Best Western Plus Beachfront Inn, South Conference Room, 16008 Boat Basin Road, Brookings, Oregon.

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 Rogue River-Siskiyou National Forest (NF) Supervisor's Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Virginia Gibbons, RAC Coordinator, by phone at 541–618–2113 or via email at *vgibbons@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. Review project proposals, and
2. Make project recommendations for Title II Funds.

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, 2017, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Virginia Gibbons, RAC Coordinator, Rogue River-Siskiyou NF Supervisor's Office, 3040 Biddle Road, Medford, Oregon 97525; by email to *vgibbons@fs.fed.us,* or via facsimile to 541–618–2144.

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 7, 2017.

Jeanne M. Higgins,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2017–06137 Filed 3–28–17; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; 2018 End-to-End Census Test—Peak Operations

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

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

DATES: To ensure consideration, written comments must be submitted on or before May 30, 2017.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *PRAcomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Robin A. Pennington, Census Bureau, HQ–2K281N, Washington, DC 20233; (301) 763–8132 (or via email at *robin.a.pennington@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

During the years preceding the 2020 Census, the Census Bureau will pursue its commitment to reduce the costs of conducting a decennial census while maintaining our commitment to quality. In 2018, the Census Bureau will be performing the 2018 End-to-End Census Test. This last major test before the 2020 Census is designed to (1) test and validate 2020 Census operations, procedures, systems, and field infrastructure to ensure proper integration and conformance with requirements, and (2) produce prototypes of geographic and data products.

The 2018 End-to-End Census Test will encompass operations and systems related to (1) Address Canvassing; (2) Optimizing Self-Response, including contact strategies, questionnaire content, and language support; (3) Update Enumerate, including technical and operational testing; (4) Nonresponse Followup, including technological and operational improvements; and (5)

Group Quarters, including technological and operational testing. The operations other than Address Canvassing are referred to collectively as Peak Operations, because they are the enumeration data collection operations of the census. These operations are the focus of this package.

The Address Canvassing operation ((1) from the above), beginning in the summer of 2017, is the first operation in the 2018 End-to-End Census Test and was included in a separate Address Canvassing Operation package due to timing considerations.

New approaches to the design of the 2020 Census are classified into four key innovation areas. These areas have been the subject of Census Bureau testing this decade to identify methodological improvements, technological advances, and possibilities for cost savings over repeating the design of the 2010 Census. One of these innovation areas is Optimizing Self-Response, which is focused on improving methods for increasing the number of people who take advantage of self-response options.

Optimizing Self-Response

The 2018 End-to-End Census Test is designed to evaluate several strategies to optimize the rate at which the public self-responds to the census, which would reduce costs of the census by decreasing the workload for following up at nonresponding units. Previous Census Bureau tests have resulted in the design of contact strategies, two of which will be in use during this test for the purpose of gathering additional metrics and making comparisons on a number of indicators. Either or both of these strategies may be included in the design of the 2020 Census, depending on a variety of factors.

Internet First is the primary mail contact strategy proposed for the 2020 Census and has been used in Census Bureau research and testing efforts since 2012. (In prior tests, this strategy was called Internet Push.) This strategy includes the mailing of a letter inviting respondents to complete the questionnaire online, two follow-up reminders, and then if necessary, a mailed paper questionnaire.

Internet Choice includes a paper questionnaire in the first mailing, along with an invitation to complete the questionnaire online, providing a choice of Internet or paper response from the beginning of the contact strategy.

In addition, the 2018 End-to-End Census Test provides the Census Bureau with an opportunity to enhance the user experience, performance, and functionality of the Internet self-response instrument compared to prior Census Tests this decade. Improvements including expanded language capabilities will support the goal of optimizing self-response by providing an easy, quick, and safe experience for respondents, and ensure that the resulting response data and paradata provide required information to follow-up and data processing operations.

The Census Bureau plans to study the following in the 2018 End-to-End Census Test:

- Comparing the self-response rates between the Internet First and the Internet Choice panels.
- Comparing item-level response by panel and by mode, including in the Update Enumerate and Group Quarters enumeration operations, both of which will be fielded for the first time this decade.
- Measuring the effects of incorporating additional household contact strategies to encourage self-response, including letter and postcard reminders.

Nonresponse Followup

The 2018 End-to-End Census Test will allow the Census Bureau to continue to refine, optimize, and assess the operational procedures and technical design of the Nonresponse Followup (NRFU) operation. The NRFU operation is a field operation for determining housing unit status (occupied, vacant, or delete) and for gathering the enumeration data at addresses for which no self-response was received. This test will build upon the results of previous field tests this decade where the NRFU operation has been conducted. In particular, NRFU is now a fully-automated operation, whereas it was performed using paper materials in the 2010 Census. For this test, the Census Bureau will examine:

- Operational procedures.
  - Testing continued refinements to the field data collection instrument for enumeration, particularly where previous testing has shown potential problems in our question branching or issues with the interview software user interface. The Census Bureau will critically assess navigation within the instrument via debriefing sessions for field enumerators after operations complete.
  - Continuing refinement of our methods for enumerating multi-unit structures, particularly identifying vacant households in multi-units with a minimal number of contact attempts, thereby minimizing respondent burden.
  - Continuing refinement of procedures for interviewing proxy respondents to gather information from hard-to-enumerate households.
  - Continuing refinement of processes used to detect and deter falsification by field enumerators.
  - Continuing evaluation of enumerator training procedures and materials, including both online training modules and classroom training.
  - Integrating a Field Verification assignment into the NRFU workload. The Field Verification cases are intended to verify the existence and location of certain types of self-responses that were received without a preassigned census identification code, called a User ID.
  - Integrating into NRFU the ability to designate an area for an earlier NRFU operation in order to enumerate college and university students living in off-campus housing before the end of the spring semester.
- Technical design.
  - Continuing refinement of the management alerts to identify potentially problematic field behavior in real time.
  - Continuing refinement of the optimization and routing algorithms used to make daily NRFU field assignments.
  - Continuing work to integrate into the Census Bureau's enterprise data collection systems.

Update Enumerate (UE)

The Update Enumerate (UE) operation as planned for the 2020 Census is significantly changed from the UE operation that was used in the 2010 Census at about one percent of all addresses. At root, the UE methodology is designed for areas that require an enumeration methodology other than self-response followed by NRFU. The current design capitalizes on 2020 Census methodological improvements such as Internet Self-Response, automated field operations, and an approach to collect responses without a User ID that is greatly expanded in scale. The 2020 Census UE operation combines address listing methodologies with person enumeration methodologies. UE is conducted mostly in geographic areas that have one or more of the following characteristics:

- Do not have city-style addresses like 123 Main Street.
- Do not receive mail through city-style addresses.
- Receive mail at post office boxes rather than at their physical address.
- Have unique challenges associated with accessibility, such as dirt roads or seasonal access.
- Have recently been affected by natural disasters.
- Have high concentrations of seasonally vacant housing.

The following objectives are being tested for Update Enumerate:

- Integrating listing and enumeration operations and systems.
- Evaluating the impact on cost and quality of the UE contact strategy on enumerator productivity and efficiency.
- Testing refinements to the field data collection instrument for enumeration, especially for atypical situations, such as movers.
- Testing field supervisor to enumerator ratios.

Group Quarters (GQ):

The 2018 End-to-End Census Test will inform Census Bureau technological and operational planning and design for the enumeration of the population residing in Group Quarters (GQs). GQs are living quarters where people who are typically unrelated have group living arrangements and frequently are receiving some type of service. College dormitories and nursing homes are examples of GQs. To date, some small-scale testing has been done to test electronic transmission of GQ's enumeration responses. The 2018 End-to-End Census Test expands on these results to allow the opportunity to evaluate procedures and technologies for conducting GQ enumeration operations. The set of operations planned for GQ enumeration is GQ Advance Contact, Service-Based Enumeration, and, finally, GQ Enumeration. These operations have been used in previous censuses. The GQ Advance Contact is an operation where facility contact and planning data are collected, including the ability of the GQ facility to provide electronic records for the enumeration. Service-Based Enumeration has the objective of counting individuals who will not be enumerated at a living quarter but are receiving some type of service. The GQ Enumeration is the final stage of enumerating individuals residing at the GQ.

- Operational procedures.
  - Testing updated procedures for handling newly discovered GQs during field operations.
  - Continuing testing of the various GQ operations, process flows, estimated staffing levels, supporting processes, and workload estimates.
  - Continuing refinement of procedures for linking paper questionnaire response records collected by multiple enumerators during enumeration at a single GQ.
  - Continuing evaluation and refinement of the optimal enumerator to GQ ratios for multiple GQ types.
  - Testing multiple modes of enumeration.
- Technical design.
  - Testing the use of electronic methodologies to:
    - Create the initial universe for the GQ Advance Contact.
    - Conduct In-Office GQ Advance Contact.
    - Update the GQ frame prior to GQ enumeration.
    - Accept electronically transmitted response data in multiple formats.
  - Integrating GQ operations with listing and enumeration operations and systems.

Content

The Census Bureau recognizes that OMB is continuing to lead the discussion among federal agencies and other stakeholders on race/ethnicity from the perspective of data collection and dissemination guidance and standards, and that the final determination has not been made on the format of the race/ethnicity question for the 2020 Census. If it is determined that the combined race/ethnicity question format may be used for the 2020 Census (versus the separate race and Hispanic Origin questions used for the 2010 Census), it will be crucial for the Census Bureau to ensure that critical operations are fully prepared to go into production for the 2020 Census using the combined question. Therefore, the 2018 End-to-End Census Test data collection operations will utilize the combined race/ethnicity question version (that includes a Middle Eastern or North African category) to further its analysis and understanding of mode differences for the race/ethnicity responses before deploying the 2020 Census questionnaire.

- *Internet Self-Response:* Continue testing the combined race/ethnicity question under the further enhancements of the Internet Self-Response instrument for the 2018 End-to-End Census Test in regards to user experience, performance, and functionality; ensure that the resulting response data and paradata meet the requirements of follow-up and data processing operations; and test expanded language capabilities on the instrument, as the introduction of additional language options contributes to additional paths to analyze the paradata and response data.
- *Nonresponse Followup:* Continue testing the combined race/ethnicity question under the further enhancements of the field enumeration instrument; assess enumerators' experience with the field enumeration instrument and their navigation of the race/ethnicity question within the instrument. Input will be gathered during the post-operation field enumerator debriefing sessions.
- *Update Enumerate and Group Quarters:* Examine the 2018 End-to-End Census Test results by mode, including Update Enumerate and Group Quarters operations, which will be fielded for the first time this decade.

II. Method of Collection

Test Sites

The 2018 End-to-End Census Test will take place in three sites within the continental United States: Pierce County, Washington; Providence County, Rhode Island; and the Bluefield-Beckley-Oak Hill, West Virginia area. These locations offer particular characteristics that support the Census Bureau's testing goals, including: various types of addresses (such as city-style, rural, and location description-only); population with varying demographics (such as age, race, and language spoken at home); variety of housing types (such as single-units, multi-units, vacant units, GQs, and mobile homes); varied levels of Internet access and usage; various time zones; and challenging environmental conditions (such as weather extremes, rough terrain).

Self-Response:

The housing units in the areas selected for inclusion in the 2018 End-to-End Census Test will be contacted by mail and invited to complete their questionnaire via the Internet. Optimizing Self-Response contact methods include follow-on letter and postcard reminders. The Census Bureau will also test strategies for delivering paper questionnaires to households that do not or cannot respond online, as measured by low Internet connectivity or low Internet usage rates.

The Census Bureau will continue to test Non-ID Processing methodology as another strategy for Optimizing Self-Response. A User ID that links to a unique housing unit is on many of the mailed materials, but respondents can also submit a response without using the ID, particularly on the Internet or telephone. Non-ID Processing refers to address matching and geocoding for census responses that lack this preassigned census ID. This processing allows such responses to be linked up with the associated census enumeration data and can occur through automated or clerical procedures. Additionally, the 2018 End-to-End Census Test will allow the Census Bureau to continue to develop the capability to conduct real-time Non-ID Processing, where a respondent is prompted interactively

(while they are still online filling out the form) for additional address and location information if the provided address cannot be matched through automation to an address with a User ID.

This test will allow the Census Bureau to understand better the requirements related to scalability of planned systems and to determine metrics for each of the Non-ID Processing steps. If the address match is not resolved during the initial automated or real-time processing, Census Bureau staff will attempt manually to match or geocode the address. It is estimated that about two percent of the overall non-ID respondents will be contacted via telephone as part of the manual matching process. Non-ID Processing also includes an office-based address verification (OBAV) component. OBAV uses available geographic reference materials to verify the existence and location of an address. OBAV is performed in an effort to avoid the more costly fieldwork. However, any address that is worked in OBAV but cannot be verified in OBAV will be sent to Field Verification (discussed in more detail below as a suboperation of NRFU).

Additionally, with the Re-collect component, a sample of self-response cases are selected for re-contact, which may occur through centralized phone contract or in-field enumeration. Re-collect is intended to validate the information from a respondent, confirming the existence of the address and the people enumerated at that address. Re-collect is also one aspect of fraud detection.

Content

Decades of research on different race/ethnicity question designs have shown that individual identities can be impacted by societal changes, attitudes, and perceptions. The 2018 End-to-End Census Test design can help us understand whether respondent reporting of racial/ethnic identities is impacted by the types of data that the Census Bureau is collecting (*e.g.,* detailed race/ethnic responses and new categories), as well as whether or not respondent privacy concerns and expectations for data protection are addressed and the process is trusted by the general public.

It will be crucial for the Census Bureau to ensure that critical operations are fully prepared to go into production for the 2020 Census using the combined question, if it is determined that the combined race/ethnicity question format may be used for the 2020 Census. The Census Bureau plans to deploy the combined race/ethnicity question version (that includes a Middle Eastern or North African category) during the 2018 End-to-End Census Test to further examine:

- Item nonresponse to the combined race and ethnicity question (with detailed checkboxes, with respect to the reporting of major race/ethnic categories (*e.g.,* White, Black, Asian, etc.) that is similar to the question the Census Bureau used in the 2015 National Content Test and is based on results from the 2010 Census Race and Hispanic Origin Alternative Questionnaire Experiment (Compton, et al., 2012).

Research has found that, over time, there have been a growing number of people who do not identify with any of the race categories, and this means that an increasing number of respondents have been classified as ''Some Other Race.'' The combined question format with detailed checkboxes attempts to help improve the accuracy of these data.

- Levels of overall race/ethnicity reporting (*e.g.,* White, Hispanic, Black, etc.), as well as detailed reporting levels for these groups (*e.g.,* German, Mexican, Jamaican, etc.).
- Levels of overall race/ethnicity reporting within the new category Middle Eastern or North African (MENA), as well as levels of detailed MENA reporting for respondents of Middle Eastern and North African heritage.
- Match rates between individual racial/ethnic responses in the 2018 End-to-End Census Test and responses in previous census records (*e.g.,* 2010 Census Hispanic origin/race data; ACS ancestry, race, Hispanic origin data). This exploration aims to focus on the comparison of race/ethnicity reporting in different social environments to understand what people have reported in the past compared to what they are reporting in the present. A growing number of people find the current race and ethnicity categories confusing.

The 2018 End-to-End Census Test will be an important opportunity to experiment with different imputation procedures to ascertain which approach yields the best overall imputation results for missing data with a combined race/ethnicity question. The 2018 End-to-End Census Test will enable researchers to ascertain which records to utilize (*e.g.,* Ancestry, Hispanic origin, Race), and in what hierarchy they should be used for imputation. With the expanded language options for the 2018 End-to-End Census Test, response data from detailed write-in fields (such as those on the combined race/ethnicity question) will also need to be output, processed, coded, edited, and tabulated, as well as translated if provided in non-English languages.

Additionally, data products and dissemination is a critical objective of the 2018 End-to-End Census Test. The question format used in data collection and processing is also the source of the redistricting tabulation, and the Census Bureau must be prepared to meet the needs of the states as well as 2020 Census data users, if it is determined that the combined race/ethnicity question format will be used for the 2020 Census. The Census Bureau believes that the results of the 2018 End-to-End Census Test will help inform our growing body of knowledge regarding the combined race/ethnicity question and the collection of major group responses and detailed race/ethnicity responses.

As previously stated, the Census Bureau recognizes that OMB is continuing to lead the discussion among federal agencies and other stakeholders on race/ethnicity from the perspective of data collection and dissemination guidance and standards, and that the final determination has not been made on the format of the race/ethnicity question for the 2020 Census. In the event that the 2020 Census does not proceed with the combined race/ethnicity question, the Census Bureau is prepared to make necessary adjustments to deploy the separate Race and Hispanic Origin questions by consulting the various versions of the separate Race and Hispanic Origin questions that were tested during the 2015 National Content Test. The Census Bureau will properly configure all downstream operations—such as response processing and data tabulation, imputation, analysis, and data dissemination—to ensure a successful deployment of the race/ethnicity question(s) regardless of the question format.

Language Services

Individuals of Limited English Proficiency (LEP) require language assistance in order to complete their census questionnaires. The Census Bureau has identified the largest LEP populations in the United States using American Community Survey data and has established a program for providing non-English materials for census tests and the decennial census. For the 2018 End-to-End Census Test, Internet self-response and telephone assistance will be available in English, Spanish, Chinese, Vietnamese, Korean, Russian, Arabic, and Tagalog. Paper questionnaires, mailing materials, field data collection instruments and field

data collection materials will be available in English and Spanish.

Nonresponse Followup (NRFU)

For all housing unit addresses included in the test universe, if no response is received by a specified date, the address will be included in the universe for the NRFU portion of the test. In NRFU, enumerators will attempt to follow up at addresses for which no self-response was received to determine their status and to collect their data for addresses determined to be occupied.

To allow sufficient time for self-response, the NRFU operation begins in mid-May. However, some students who reside in off-campus housing units will have left the campus area by the time NRFU begins. Early NRFU is conducted starting in April in blocks near colleges and universities with a high percentage of off-campus housing to enumerate at these units while students are still in town.

The Census Bureau will conduct NRFU with mobile devices. The devices will utilize a secure Census Bureau-provided enumeration application solution for conducting the NRFU field data collection.

Nonresponse Followup Reinterview (NRFU–RI)

A sample of the cases enumerated via NRFU will be selected for reinterview (RI). This NRFU–RI operation is intended to help pinpoint possible cases of enumerator falsification. The Census Bureau will test centralized phone contacts of the NRFU–RI cases before sending them to an enumerator in the field, providing potential cost avoidance opportunities. Enumerators working NRFU–RI cases will use the same mobile devices and software as for the NRFU cases.

Field Verification (FV)

Households that self-respond to the Census without a User ID with addresses that cannot be either matched to our address frame or verified in Non-ID Processing may be sent to a Field Verification operation, performed by NRFU enumerators. This suboperation is designed for verification that the housing unit exists, confirmation of the census block location for the address, and if possible, collection of Global Positioning System coordinates to facilitate accurate determination of the census block.

Update Enumerate (UE)

Update Enumerate for the 2018 End-to-End Census Test will test the four planned components of the operation: Update Enumerate Production, Update Enumerate Listing Quality Control (QC), Update Enumerate Followup, and Update Enumerate Reinterview. In addition to the field operation, the Census Bureau will test mailing out an invitation package to those housing units with a mailable address to generate self-response before the operation begins. Mailable addresses will constitute only a small percentage of the addresses in these areas. If a household self-responds, the UE fieldworker (enumerator) will not need to enumerate that house while listing the geographic area. This is a cost savings to Update Enumerate since the enumerator will not have to spend time collecting these data.

Update Enumerate (UE) Production

Enumerators will visit specific geographic areas to identify every place where people could live or stay, comparing what they see on the ground to the existing census address list. The enumerator will update the address list, either verify or correct the address and location information, and classify each living quarter (LQ) as a housing unit (HU) or group quarter (GQ). If the LQ is classified as a GQ, it will be designated for enumeration within the GQ operations.

Enumerators will attempt to conduct an interview for each housing unit that has not yet self-responded. If someone answers the door, the enumerator will provide a Confidentiality Notice and ask questions to verify or update the address. The enumerator will then ask if there are any additional LQs in the structure or on the property. If there are additional LQs, the enumerators will collect/update that information. The enumerator will then interview the respondent for the household using the questionnaire on the mobile device.

If no one is home at a housing unit that has not self-responded, the enumerator will leave a Notice of Visit inviting a respondent for each household to go online with a User ID to complete the 2018 End-to-End Census Test. The Notice of Visit will also include the phone number for Census Questionnaire Assistance (CQA) if the respondent has any questions or would prefer to respond to the survey on the telephone. In the 2018 End-to-End Census Test, a paper questionnaire rather than a Notice of Visit will be left with a random set of addresses in order to test the impact on self-response rates. This operation has never been tested for the census before, and this data will help determine the best strategies to use in the 2020 Census.

Update Enumerate Listing QC

A sample of addresses listed via UE production will be selected for UE Listing QC. The intention of this operation is to help us pinpoint possible cases of enumerator falsification or error in address listing. UE Listing QC will use the Census Bureau's listing software on mobile devices to recollect listing data to be used for a comparison.

Update Enumerate Followup

The UE operation will have a UE Followup component for those households that were not enumerated on the first visit and have not yet self-responded. UE enumerators will conduct the operation using the NRFU enumeration application on a Census Bureau provided mobile device.

Update Enumerate Reinterview (UE RI)

A sample of cases enumerated via UE production or UE Followup will be selected for reinterview. The intention of this operation is to help us pinpoint possible cases of enumerator falsification of enumeration data. The Census Bureau will test centralized phone contacts of the UE RI cases before sending them to an enumerator in the field, providing potential cost avoidance opportunities. Enumerators working UE RI cases will use the same mobile devices and software as for the UE and NRFU cases.

Group Quarters Advance Contact

The GQ Advance Contact operation will contact Group Quarters prior to enumeration. In an in-office Advance Contact, GQs will be contacted to verify information such as: Preferred modes of enumeration, expected population on Census Day, and whether there are available electronic response data records the Census Bureau could use for the enumeration. Census Bureau staff at local Census offices will follow-up with GQs by phone, email, and in-person to obtain the necessary pre-enumeration information.

Group Quarters Service-Based Enumeration (SBE)

Enumerators will conduct SBE at selected shelters, soup kitchens, and nonsheltered outdoor locations, providing an opportunity to test new response collection procedures on a larger scale than has been tested so far this decade.

Group Quarters Enumeration (GQE)

GQE will involve multiple modes of enumeration. During the 2018 End-to-End Census Test, electronic response for GQs will be tested on a broad scale to determine if there are gains in efficiency

through self-response. Use of the automated enumeration device is an additional technology to be tested in GQE. For GQs that request paper-based enumeration, enumerators will perform drop off and pickup of paper forms, which are completed by self-enumeration.

Group Quarters QC

A sample of cases that have been enumerated via GQE will be selected for reinterview. This operation is intended to help us pinpoint possible cases of enumerator falsification.

Coverage Improvement

Coverage Improvement is conducted to resolve potential erroneous enumerations and omissions from the initial self-response data collection and from all field enumeration data collections. Coverage questions are included in both the self-response and NRFU instruments to aid in the identification of coverage follow-up cases. In-office follow-up includes evaluating usual-home-elsewhere address data from GQ enumerations, and assessing the potential person duplication, as identified through person matching on collected data. For cases where in-office processes do not yield a resolution, field and/or telephone follow-up with the respondent will occur.

Response Processing and Data Tabulation

With the addition of expanded language options, response data from detailed write-in fields, such as those on the combined race/ethnicity question, will need to be translated, output, processed, coded, edited, and tabulated. In addition, a prototype of the Redistricting Data Program output will be delivered. Ensuring these interfaces meet the requirements for data tabulation will be a crucial step in preparing to tabulate the test data.

The design of this data product and its dissemination is a critical final objective of the 2018 End-to-End Census Test, as the Census Bureau must be prepared to meet the needs of various stakeholders for 2020 Census data.

III. Data

OMB Control Number: 0607–XXXX.

Form Number(s): Paper and electronic questionnaires; numbers to be determined.

Type of Review: Regular submission.

Affected Public: Households/Individuals.

Estimated Number of Respondents:

TEST SITES—PIERCE COUNTY, WASHINGTON; PROVIDENCE COUNTY, RHODE ISLAND; AND THE BLUEFIELD-BECKLEY-OAK HILL, WEST VIRGINIA AREA

Operation or category	Estimated number of respondents	Estimated time per response (minutes)	Total burden hours
Geographic Area Focused on Self-Response:			
Internet/Telephone/Paper	337,000	10	56,167
Nonresponse Followup	323,000	10	53,833
Nonresponse Followup Reinterview	30,685	10	5,114
Self-Response Subtotal	690,685	.....	115,114
Geographic Area Focused on Update Enumerate:			
Update Enumerate Production	96,000	12	19,200
Update Enumerate Listing QC	9,600	5	800
Update Enumerate Followup	48,000	10	8,000
Update Enumerate Reinterview	9,600	10	1,600
Update Enumerate Subtotal	163,200	.....	29,600
Group Quarters:			
GQ Advance Contact (facility)	1,200	10	200
GQ SBE—facility contact	100	10	17
GQ SBE—person contact	4,000	10	667
GQ Enumeration—facility contact	1,100	10	183
GQ Enumeration—person contact	55,000	10	9,167
Group Quarters QC	110	5	9
Group Quarters Subtotal	61,510	.....	10,243
Non-ID Processing Phone Followup	337	5	28
Re-collect	16,000	10	2,667
Field Verification	421	2	14
Coverage Improvement	15,420	10	2,570
Totals	947,573	.....	160,236

Self-Response by Internet/Telephone/Paper: 337,000 respondents.

Nonresponse Followup: 323,000 respondents.

Nonresponse Followup Reinterview: 30,685 respondents.

Update Enumerate Production: 96,000 respondents.

Update Enumerate Listing QC: 9,600 respondents.

Update Enumerate Followup: 48,000 respondents.

Update Enumerate Reinterview: 9,600 respondents.

Group Quarters Advance Contact (facility): 1,200 respondents.

Group Quarters Service-Based Enumeration—facility contact: 100 respondents.

Group Quarters Service-Based Enumeration—person contact: 4,000 respondents.

Group Quarters Enumeration—facility contact: 1,100 respondents.

Group Quarters Enumeration—person contact: 55,000 respondents.
Group Quarters QC: 110 respondents.
Non-ID Processing Phone Followup: 337 respondents.
Re-collect: 16,000 respondents.
Field Verification: 421 respondents.
Coverage Improvement: 15,420 respondents.
Total: 947,573 Contacts.
Estimated Time per Response:
Self-Response by Internet/Telephone/Paper: 10 minutes per response.
Nonresponse Followup: 10 minutes per response.
Nonresponse Followup Reinterview: 10 minutes per response.
Update Enumerate Production: 12 minutes per response.
Update Enumerate Listing QC: 5 minutes per response.
Update Enumerate Followup: 10 minutes per response.
Update Enumerate Reinterview: 10 minutes per response.
Group Quarters Advance Contact: 10 minutes per response.
Group Quarters Service-based Enumeration: 10 minutes per response.
Group Quarters Enumeration: 10 minutes per response.
Group Quarters QC: 5 minutes per response.
Non-ID Processing Phone Followup: 5 minutes per response.
Re-collect: 10 minutes per response.
Field Verification: 2 minutes per response.
Coverage Improvement: 10 minutes per response.
Estimated Total Annual Burden Hours: 160,236 hours.
Estimated Total Annual Cost to Public: There are no costs to respondents other than their time to participate in this data collection.
Respondent's Obligation: Mandatory.
Legal Authority: Title 13 U.S.C. Sections 141, 191 and 193.

IV. Request for Comments

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

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

Sheleen Dumas,

PRA Departmental Lead, Office of the Chief Information Officer.

[FR Doc. 2017–06171 Filed 3–28–17; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Meeting of Bureau of Economic Analysis Advisory Committee

AGENCY: Bureau of Economic Analysis, Economics and Statistics Administration, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463 as amended by Pub. L. 94–409, Pub. L. 96–523, Pub. L. 97–375 and Pub. L. 105–153), we are announcing a meeting of the Bureau of Economic Analysis Advisory Committee. The meeting will focus on the ongoing challenges of measuring prices in the 21st century and address upcoming plans for the national economic accounts.

DATES: Friday, May 12, 2017. The meeting will begin at 9:00 a.m. and adjourn at 3:30 p.m.

ADDRESSES: The meeting will take place at the Suitland Federal Center, which is located at 4600 Silver Hill Road, Suitland, MD 20746.

FOR FURTHER INFORMATION CONTACT: Dondi Staunton, Senior Advisor, U.S. Department of Commerce, Bureau of Economic Analysis, Suitland, MD 20746; telephone number: (301) 278–9798.

Public Participation: This meeting is open to the public. Because of security procedures, anyone planning to attend the meeting must contact Dondi Staunton of BEA at (301) 278–9798 in advance. The meeting is physically accessible to people with disabilities. Requests for foreign language interpretation or other auxiliary aids should be directed to Dondi Staunton at (301) 278–9798.

SUPPLEMENTARY INFORMATION: The Committee was established September 2, 1999. The Committee advises the Director of BEA on matters related to the development and improvement of BEA's national, regional, industry, and international economic accounts, especially in areas of new and rapidly growing economic activities arising from innovative and advancing technologies, and provides recommendations from the perspectives of the economics profession, business, and government. This will be the Committee's twenty-ninth meeting.

Dated: March 20, 2017.

Brian C. Moyer,

Director, Bureau of Economic Analysis.

[FR Doc. 2017–06204 Filed 3–28–17; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[3/14/2017 through 3/23/2017]

Firm name	Firm address	Date accepted for investigation	Product(s)
Giering Metal Finishing, Inc	2655 State Street, Hamden, CT 06517.	3/16/2017	The firm is a metal finishing job shop that specializes in the application of organic coatings, with processes such as: Electrocoating, powder coating, compliant paint coating, conversion coating, silk screening, masking, and packaging.
Coastal Woodworking, Inc	16 Sand Hill Road, Post Office Box 137, Nobleboro, ME 04555.	3/17/2017	The firm manufactures custom wood displays and consumer packaging products.
Dechert Dynamics Corporation	713 West Main Street, Palmyra, PA 17078.	3/21/2017	The firm offers machining services, such as milling and turning, utilizing CNC technology.
Consolidated Storage Companies, Inc. d/b/a Equipto, Inc.	225 Main Street, Tatamy, PA 18085.	3/21/2017	The firm manufactures industrial grade storage systems, of steel, such as shelving, cabinetry, and the like.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Miriam Kearse,

Lead Program Analyst.

[FR Doc. 2017–06165 Filed 3–28–17; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–814]

Utility Scale Wind Towers From the Socialist Republic of Vietnam: Notice of Court Decision Not in Harmony With the Final Determination of Less Than Fair Value Investigation and Notice of Amended Final Determination of Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On March 16, 2017, the United States Court of International Trade (CIT or Court) issued its final judgment, affirming the Department of Commerce's (the Department) final results of redetermination concerning the less-than-fair-value investigation (LTFV) of utility scale wind towers from the Socialist Republic of Vietnam (Vietnam). The Department is notifying the public that the Court's final judgment in this case is not in harmony with the Department's final determination in the LTFV investigation on utility scale wind towers from Vietnam, and is amending the final determination with respect to CS Wind Vietnam Co., Ltd. and CS Wind Corporation (collectively, CS Wind Group).

DATES: Effective March 26, 2017.

FOR FURTHER INFORMATION CONTACT: Trisha Tran, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4852.

SUPPLEMENTARY INFORMATION:

Background

On February 15, 2013, the Department published its amended final determination and antidumping duty order in this proceeding.[1] The CS Wind Group appealed the *Wind Towers Final Determination* to the CIT, and on March 27, 2014, the CIT remanded the *Wind Towers Final Determination* to the Department.[2] On July 29, 2014, the Department filed its results of redetermination pursuant to remand in accordance with the CIT's order.[3]

On November 3, 2014, the CIT affirmed, in part, and remanded in part, the Department's *Final First Redetermination,* which resulted in a weighted-average dumping margin of 17.07 percent for the CS Wind Group.[4] In the *Final Second Redetermination,* the Department revised its calculation of certain surrogate financial ratios.[5] The Court affirmed the Department's second remand in its entirety on May 11, 2015, which resulted in a weighted-average dumping margin of 17.02 percent for the CS Wind Group.[6]

The CS Wind Group challenged the CIT's affirmance of the Department's *Final Second Redetermination.* On August 12, 2016, the CAFC directed the CIT to remand the matter to the Department, and in so doing: (1) reversed the CIT's affirmance of the Department's use of packing weights rather than the factors of production (FOP) weights in its calculation of surrogate value; and, (2) vacated and remanded the CIT's overhead determination with respect to jobwork charges, erection expenses, and civil expenses.[7] The Department issued its

[1] *See Utility Scale Wind Towers from the Socialist Republic of Vietnam: Final Determination of Sales at Less Than Fair Value,* 77 FR 75984 (December 26, 2012), as amended by *Utility Scale Wind Towers from the Socialist Republic of Vietnam: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 78 FR 11150 (February 15, 2013) (*Wind Towers Amended Final Determination*).

[2] *See CS Wind Vietnam Co., Ltd. and CS Wind Corporation* v. *United States,* 971 F. Supp. 2d 1271 (CIT 2014).

[3] *See* Final Results of Redetermination Pursuant to Court Order, *CS Wind Vietnam Co., Ltd. and CS Wind Corporation* v. *United States,* Consol. Court No. 13–00102, Slip Op. 14–33, dated July 29, 2014 (*Final First Redetermination*); *see also http://enforcement.trade.gov/remands/index.html.*

[4] *See CS Wind Vietnam Co., Ltd. and CS Wind Corporation* v. *United States,* Consol. Court No. 13–00102, Slip Op. 14–128 (CIT November 3, 2014).

[5] *See* Final Redetermination Pursuant to Court Order, ''*CS Wind Vietnam Co., Ltd. and CS Wind Corporation* v. *United States,* Consol. Court No. 13–00102, Slip Op. 14–128, (November 3, 2014),'' dated January 21, 2015 (*Final Second Redetermination*); *see also http://enforcement.trade.gov/remands/index.html.*

[6] *See CS Wind Vietnam Co., Ltd. and CS Wind Corporation* v. *United States,* Consol. Court No. 13–00102, Slip Op. 15–45 (CIT May 11, 2015).

[7] *See CS Wind Vietnam Co., Ltd., and CS Wind Corporation* v. *United States and Wind Tower Coalition,* 832 F. 3d 1367 (Fed. Cir. 2016).

Final Third Redetermination[8] on December 9, 2016. On March 16, 2017, the Court affirmed the Department's *Final Third Redetermination* in its entirety.[9]

Timken Notice

In its decision in *Timken,*[10] as clarified by *Diamond Sawblades,*[11] the CAFC held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision that is not ''in harmony'' with a Department determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's March 16, 2017, judgment affirming the *Final Third Redetermination* constitutes a final decision of that court that is not in harmony with the *Wind Towers Final Determination.* This notice is published in fulfillment of the publication requirements of *Timken.*

Amended Final Determination

Because there is now a final court decision with respect to this litigation, the Department is amending the *Wind Towers Final Determination* with respect to the CS Wind Group's dumping margin and cash deposit rate. The revised dumping margin and cash deposit rate for this exporter/producer combination is 0.00 percent.[12]

Producer	Exporter	Estimated weighted-average dumping margin (percent)
CS Wind Group	CS Wind Group	0.00

Partial Exclusion From the Antidumping Duty Order and Partial Discontinuation of the Antidumping Duty Administrative Review

Pursuant to sections 735(c)(2) of the Act, ''the investigation shall be terminated upon publication of that negative determination'' and the Department shall ''terminate the suspension of liquidation'' and ''release any bond or other security, and refund any cash deposit.'' *See* Sections 735(c)(2)(A) and (B) of the Act. As a result of this amended final determination, in which the Department calculated a weighted-average dumping margin of 0.00 percent for CS Wind Group, the Department is hereby excluding merchandise from the following producer/exporter chain from the antidumping duty order:

Producer: CS Wind Group.

Exporter: CS Wind Group.

Accordingly, the Department will direct U.S. Customs and Border Protection (CBP) to release any bonds or other security and refund cash deposits. This exclusion does not apply to merchandise produced by CS Wind Group and exported by any other company. Therefore, resellers of merchandise produced, or produced and exported by CS Wind Group, are not entitled to the exclusion. Similarly, the exclusion does not apply to merchandise produced by any other company and exported by CS Wind Group.

We note, however, that pursuant to Timken, the suspension of liquidation must continue during the pendency of the appeals process. Thus, at this time we will instruct CBP to continue the suspension of liquidation at a cash deposit rate of 0.00 percent for entries produced and exported by CS Wind Group until otherwise instructed and to release any bond or other security that CS Wind Group made pursuant to the *Final Third Redetermination.* If the CIT's ruling is not appealed, or if appealed and upheld, the Department will instruct CBP to terminate the suspension of liquidation and to liquidate entries produced and exported by CS Wind Group without regard to antidumping duties. As a result of the exclusion, the Department will not initiate any new administrative reviews of the antidumping duty order with respect to merchandise produced and exported by CS Wind Group. The review will continue with regard to merchandise produced by CS Wind Group and exported by another company or produced by any other company and exported by CS Wind Group.

Finally, we note that, at this time, the Department remains enjoined by Court order from liquidating entries produced and/or exported by CS Wind Group during the period February 13, 2013, through January 31, 2014. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: March 24, 2017.

Gary Taverman,

Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–06254 Filed 3–28–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–009]

Calcium Hypochlorite From the People's Republic of China: Final Decision To Rescind the Countervailing Duty New Shipper Review of Haixing Jingmei Chemical Products Sales Co., Ltd.

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On January 3, 2017, the Department of Commerce (the Department) published its Preliminary intent to rescind the new shipper review (NSR) of the countervailing duty order on calcium hypochlorite from the People's Republic of China (PRC). The period of review is May 27, 2014, through December 31, 2015. As discussed below, we announced our preliminary intent to rescind this review because the Department requested but did not receive from Haixing Jingmei Chemical Products Sales Co., Ltd. (Jingmei) and its customers' information requested by the Department to determine whether, and conclude that, the sale under review is *bona fide.*

[8] *See* Final Results of Redetermination Pursuant to Court Order, *CS Wind Vietnam Co., Ltd. and CS Wind Corporation* v. *United States,* Consol. Court No. 13–00102, dated October 4, 2016 (*Third Final Redetermination*).

[9] *See CS Wind Vietnam Co., Ltd. and CS Wind Corporatio* v. *United States,* Consol. Court No. 13–00102, Slip Op. 17–26 (CIT March 16, 2017); *see also http://enforcement.trade.gov/remands/index.html.*

[10] *Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

[11] *Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

[12] *See Final Third Redetermination.*

Based on our analysis of the comments received, we make no changes to the preliminary intent to rescind. Accordingly, we have determined to rescind this NSR.

DATES: Effective March 29, 2017.

FOR FURTHER INFORMATION CONTACT: Ryan Mullen or Elizabeth Lobaugh, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5260 or (202) 482–7425, respectively.

SUPPLEMENTARY INFORMATION:

Background

For a complete description of the events that followed the publication of the *Preliminary Intent to Rescind,*[1] see the Issues and Decision Memorandum.[2] The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and to all users in the Department's Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/*. The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Scope of the Order

The merchandise covered by the order is calcium hypochlorite, regardless of form (*e.g.,* powder, tablet (compressed), crystalline (granular), or in liquid solution), whether or not blended with other materials, containing at least 10% available chlorine measured by actual weight. Calcium hypochlorite is currently classifiable under the subheading 2828.10.0000 of the Harmonized Tariff Schedule of the United States.[3]

Analysis of Comments Received

All issues raised in the case briefs by parties are addressed in the Issues and Decision Memorandum.[4] A list of the issues which parties raised is attached to this notice as an Appendix.

Final Rescission of Jingmei New Shipper Review

In the *Preliminary Intent to Rescind,* we preliminarily determined to rescind this review because we requested, but were not provided, sufficient information to determine whether, and conclude that, Jingmei's sale of subject merchandise to the United States was *bona fide.* Based on the Department's complete analysis of all the information and comments on the record of this review, we make no changes to the *Preliminary Intent to Rescind.* Accordingly, we have determined to rescind this NSR. For a complete discussion, see the Issues and Decision Memorandum and the Preliminary *Bona Fides* Memo.[5]

Assessment

As the Department is rescinding this NSR, we have not calculated a company-specific subsidy rate for Jingmei.

Cash Deposit Requirements

Effective upon publication of this notice of the final rescission of the NSR of Jingmei, the Department will instruct U.S. Customs and Border Protection to discontinue the option of posting a bond or security in lieu of a cash deposit for entries of subject merchandise from Jingmei. Because we did not calculate a subsidy rate for Jingmei, Jingmei continues to be subject to the all-others rate. The all-others rate is 65.85 percent.[6] The current cash deposit requirements shall remain in effect until further notice.

Administrative Protective Orders

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, 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 terms of an APO is a violation which is subject to sanction.

The Department is issuing and publishing these results in accordance with sections 751(a)(2)(B) and 777(i) of the Tariff Act of 1930, as amended, and 19 CFR 351.214 and 19 CFR 351.221(b)(5).

Dated: March 23, 2017.

Gary Taverman,

Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2017–06196 Filed 3–28–17; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Calcium Hypochlorite from the People's Republic of China: Preliminary Intent to Rescind the New Shipper Review of Haixing Jingmei Chemical Products Sales Co., Ltd.,* 82 FR 83 (January 3, 2017) (*Preliminary Intent to Rescind*).

[2] *See* Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from James Doyle, Director, Office V, ''Issues and Decision Memorandum for the Final Rescission of the Countervailing Duty New Shipper Review of Calcium Hypochlorite from the People's Republic of China: Haixing Jingmei Chemical Products Sales Co., Ltd.'' dated concurrently with and hereby adopted by this notice (Issues and Decision Memorandum).

[3] For a complete description of the scope of the order, *see* the Issues and Decision Memorandum.

[4] *See* Issues and Decision Memorandum.

[5] *See* Memorandum to James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, through Catherine Bertrand, Program Manager, Office V, Antidumping and Countervailing Duty Operations, from Elizabeth Lobaugh, International Trade Analyst, ''*Bona Fide* Nature of the Sale in the Countervailing Duty New Shipper Review of Calcium Hypochlorite from the People's Republic of China: Haixing Jingmei Chemical Products Sales Co., Ltd.'' (December 27, 2016) (Preliminary *Bona Fides* Memo).

[6] *See Calcium Hypochlorite from the People's Republic of China: Countervailing Duty Order,* 80 FR 5085 (January 30, 2015).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF304

Fisheries of the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meetings

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

ACTION: Notice of SEDAR 56 Assessment Webinars.

SUMMARY: The SEDAR 56 assessment of the South Atlantic stock of black seabass will consist of a series webinars. See **SUPPLEMENTARY INFORMATION**.

DATES: SEDAR 56 Assessment webinars will be held on Wednesday, June 21, 2017, from 9 a.m. until 1 p.m.; Thursday, July 20, 2017, from 1 p.m.

until 5 p.m.; and Wednesday, August 16, 2017, from 9 a.m. until 1 p.m.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julia Byrd at SEDAR (see **FOR FURTHER INFORMATION CONTACT** below) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405; *www.sedarweb.org.*

FOR FURTHER INFORMATION CONTACT: Julia Byrd, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone (843) 571–4366; email: *julia.byrd@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions, have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. The product of the SEDAR webinar series will be a report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses, and describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants include: Data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion in the Assessment webinars are as follows:

1. Participants will continue discussions to develop population models to evaluate stock status, estimate population benchmarks, and project future conditions, as specified in the Terms of Reference.

2. Participants will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters.

3. Participants will prepare a workshop report and determine whether the assessment(s) are adequate for submission for review.

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 these meetings. Action will be restricted to those issues specifically identified 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 intent to take final action to address the emergency.

Special Accommodations

These meetings are accessible to people with disabilities. Requests for auxiliary aids should be directed to the SAFMC office (see **ADDRESSES**) at least 10 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: March 24, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–06179 Filed 3–28–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF303

Fisheries of the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 56 Assessment Scoping webinar.

SUMMARY: The SEDAR 56 assessment of the South Atlantic stock of black seabass will consist of a series webinars. See **SUPPLEMENTARY INFORMATION**.

DATES: A SEDAR 56 Assessment Scoping webinar will be held on Friday, May 12, 2017 from 1 p.m. until 5 p.m.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julia Byrd at SEDAR (see **FOR FURTHER INFORMATION CONTACT** below) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405; *www.sedarweb.org.*

FOR FURTHER INFORMATION CONTACT: Julia Byrd, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone (843) 571–4366; email: *julia.byrd@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions, have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. The product of the SEDAR webinar series will be a report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses, and describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants include: data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion in the Assessment Scoping webinar are as follows:

Participants will review data and discuss data issues, as necessary, and initial model issues.

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 identified 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 intent to take final action to address the emergency.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the SAFMC office (see **ADDRESSES**) at least 10 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: March 24, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–06178 Filed 3–28–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Integrated Drought Information System (NIDIS) Executive Council Meeting

AGENCY: Climate Program Office (CPO), Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of open meeting.

SUMMARY: The National Integrated Drought Information System (NIDIS) Program will hold an organizational meeting of the NIDIS Executive Council on April 20, 2017.

DATES: The meeting will be held Thursday, April 20, 2017 from 9:00 a.m. EST to 4:30 p.m. EST. These times and the agenda topics described below are subject to change.

ADDRESSES: The meeting will be held at the Hall of States, Room 383/385, 444 North Capitol St. NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Veva Deheza, NIDIS Executive Director, David Skaggs Research Center, Room GD102, 325 Broadway, Boulder CO 80305. Email: *Veva.Deheza@noaa.gov*; or visit the NIDIS Web site at *www.drought.gov.*

SUPPLEMENTARY INFORMATION: The National Integrated Drought Information System (NIDIS) was established by Public Law 109–430 on December 20, 2006, and reauthorized by Public Law 113–86 on March 6, 2014, with a mandate to provide an effective drought early warning system for the United States; coordinate, and integrate as practicable, Federal research in support of a drought early warning system; and build upon existing forecasting and assessment programs and partnerships. *See* 15 U.S.C. 313d. The Public Law also calls for consultation with ''relevant Federal, regional, State, tribal, and local government agencies, research institutions, and the private sector'' in the development of NIDIS. 15 U.S.C. 313d(c). The NIDIS Executive Council provides the NIDIS Program Office with an opportunity to engage in individual consultation with senior resource officials from NIDIS's Federal partners, as well as leaders from state and local government, academia, nongovernmental organizations, and the private sector.

Status: This meeting will be open to public participation. Individuals interested in attending should register at *https://cpaess.ucar.edu/meetings/2017/nidis-executive-council-meeting-april-2017.* Please refer to this Web page for the most up-to-date meeting times and agenda. Seating at the meeting will be available on a first-come, first-served basis.

Special Accommodations: This meeting is physically accessible to people with disabilities. Requests for special accommodations may be directed no later than 12:00 p.m. on April 18, 2016, to Elizabeth Ossowski, Program Coordinator, David Skaggs Research Center, Room GD102, 325 Broadway, Boulder CO 80305; Email: *Elizabeth.Ossowski@noaa.gov.*

Matters To Be Considered: The meeting will include the following topics: (1) NIDIS implementation updates and 2017 priorities, (2) Council member updates and 2017 priorities, (3) cross-agency Federal priorities as well as state government priorities in 2017, (4) drought resilience efforts at the Federal level, (5) quantifying the socio-economic impact of drought and the cost of inaction as well as the benefits of action, (6) partnership between the National Water Center and NIDIS, and (7) open discussion on advancing the goals of the NIDIS Public Law.

Dated: March 23, 2017.

Paul Johnson,

Acting Deputy Chief Financial Officer/CAO, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2017–06226 Filed 3–28–17; 8:45 am]

BILLING CODE 3510–KB–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF250

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Seattle Multimodal Construction Project in Washington State

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

ACTION: Proposed incidental harassment authorization; request for comment.

SUMMARY: NMFS has received an application from Washington State Department of Transportation (WSDOT) for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to Seattle Multimodal Construction Project in Washington State. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to the WSDOT to incidentally take marine mammals during the specified activities.

DATES: Comments and information must be received no later than April 28, 2017.

ADDRESSES: Comments on the application should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Guan@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Shane Guan, Office of Protected

Resources, NMFS, (301) 427–8401. Electronic copies of the applications and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm*. In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified area, the incidental, but not intentional, taking of small numbers of marine mammals, provided that certain findings are made and the necessary prescriptions are established.

The incidental taking of small numbers of marine mammals shall be allowed if NMFS (through authority delegated by the Secretary) finds that the total taking by the specified activity during the specified time period will (i) have a negligible impact on the species or stock(s) and (ii) not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). Further, the permissible methods of taking, as well as the other means of effecting the least practicable adverse impact on the species or stock and its habitat (*i.e.,* mitigation) must be prescribed. Last, requirements pertaining to the monitoring and reporting of such taking must be set forth.

Where there is the potential for serious injury or death, the allowance of incidental taking requires promulgation of regulations under MMPA section 101(a)(5)(A). Subsequently, a Letter (or Letters) of Authorization may be issued as governed by the prescriptions established in such regulations, provided that the level of taking will be consistent with the findings made for the total taking allowable under the specific regulations. Under MMPA section 101(a)(5)(D), NMFS may authorize incidental taking by harassment only (*i.e.,* no serious injury or mortality), for periods of not more than one year, pursuant to requirements and conditions contained within an Incidental Harassment Authorization (IHA). The promulgation of regulations or issuance of IHAs (with their associated prescribed mitigation, monitoring, and reporting) requires notice and opportunity for public comment.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Except with respect to certain activities not pertinent here, 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).

National Environmental Policy Act (NEPA)

Issuance of an MMPA 101(a)(5) authorization requires compliance with the National Environmental Policy Act.

NMFS preliminary determined the issuance of the proposed IHA is consistent with categories of activities identified in CE B4 (issuance of incidental harassment authorizations under section 101(a)(5)(A) and (D) of the MMPA for which no serious injury or mortality is anticipated) of the Companion Manual for NAO 216–6A and we have not identified any extraordinary circumstances listed in Chapter 4 of the Companion Manual for NAO 216–6A that would preclude this categorical exclusion.

We will review all comments submitted in response to this notice prior to making a final decision on the IHA request.

Summary of Request

On July 28, 2016, WSDOT submitted a request to NMFS requesting an IHA for the harassment of small numbers of 11 marine mammal species incidental to construction associated with the Seattle Multimodal Project at Colman Dock, Seattle, Washington, between August 1, 2017 and July 31, 2018. NMFS initially determined the IHA application was complete on September 1, 2016. However, WSDOT notified NMFS in November 2016 that the scope of its activities had changed. WSDOT stated that instead of using vibratory hammers for the majority of in-water pile driving and using impact hammer for proofing, it would be required to use impact hammers to drive a large number of piles completely due to sediment conditions at Colman Dock. On March 2, 2017, WSDOT submitted a revised IHA application with updated project description. NMFS determined that the revised IHA application was complete on March 3, 2017.

NMFS is proposing to authorize the Level A and Level B harassment of the following eight marine mammal species/stocks: Harbor seal (*Phoca vitulina*), California sea lion (*Zalophus californianus*), Steller sea lion (*Eumetopias jubatus*), killer whale (*Orcinus orca*), gray whale (*Eschrichtius robustus*), humpback whale (*Megaptera novaeangliae*), harbor porpoise (*Phocoena phocoena*), and Dall's porpoise (*P. dalli*).

Description of Specified Activities

Overview

WSDOT is proposing to preserve the Seattle Ferry Terminal at Colman Dock. The project will reconfigure the dock while maintaining approximately the same vehicle holding capacity as current conditions. The reconfiguration would increase total permanent overwater coverage (OWC) by about 5,400 square feet (f^2) (about 1.7 percent more than existing overwater coverage at the site), due to the new walkway from the King County Passenger Only Ferry (POF) facility to Alaskan Way and new stairways and elevators from the POF to the upper level of the terminal. The additional 5,400 f^2 will be mitigated by removing a portion of Pier 48, a condemned timber structure.

The project will remove the northern timber trestle and replace a portion of it with a new concrete trestle. The area from Marion Street to the north edge of the property will not be rebuilt and will become, after demolition, a new area of open water. A section of fill contained behind a bulkhead underneath the northeast section of the dock will also be removed.

WSDOT will construct a new steel and concrete trestle from Columbia Street northward to Marion Street. Construction of the reconfigured dock will narrow (reduce) the OWC along the shoreline (at the landward edge) by 180 linear feet at the north end of the site, while 30 linear feet of new trestle would be constructed along the shoreline at the south end of the site. The net reduction of OWC in the nearshore zone is 150 linear feet.

The purpose of the Seattle Multimodal Project at Colman Dock is to preserve the transportation function of an aging, deteriorating and seismically-deficient facility to continue providing safe and reliable service. The project will also address existing safety concerns related to conflicts between vehicles and pedestrian traffic and

operational inefficiencies. Key project elements include:

- Replacing and re-configuring the timber trestle portion of the dock;
- Replacing the main terminal building;
- Reconfiguring the dock layout to provide safer and more efficient operations;
- Replacing the vehicle transfer span and the overhead loading structures of Slip 3;
- Replacing vessel landing aids;
- Maintaining a connection to the Marion Street pedestrian overpass;
- Moving the current POF slip temporarily to the north to make way for south trestle construction, and then constructing a new POF slip in the south trestle area;
- Mitigating for the additional 5,400 f^2 of overwater coverage;
- Capping existing contaminated sediments.

The proposed Seattle Multimodal Project would involve in-water impact and vibratory pile driving and vibratory pile removal. Details of the proposed construction project that have the potential to affect marine mammals are provided below.

Dates and Duration

Due to NMFS and the U.S. Fish and Wildlife Service (USFWS) in-water work timing restrictions to protect Endangered Species Act (ESA) listed salmonids, planned WSDOT in-water construction at this location is limited each year to July 16 through February 15. For this project, in-water construction is planned to take place between August 1, 2017 and February 15, 2018.

The total worst-case time for pile installation and removal is expected to be 83 working days (Table 1).

- Vibratory driving of each of the 101 24-inch steel pile will take approximately 20 minutes, with a maximum of 16 piles installed per day over 7 days.
- Vibratory removal of 103 temporary 24-inch diameter steel piles will take approximately 20 minutes per pile, with maximum 16 piles removed per day over 8 days.
- Impact driving (3000 strikes per pile) of 14 30-inch and 201 36-inch diameter steel piles will take approximately 45 minutes per pile, with maximum 8 piles per day for a total of 28 days.
- Vibratory driving of 17 30- and 205 36-inch diameter steel piles will take 20 minutes per pile, with maximum 8 piles per day over a total of 29 days.
- Vibratory removal of 215 14-inch timber piles will take approximately 15 minutes per pile, with approximately 20 piles removed per day for 11 days.

TABLE 1— SUMMARY OF IN-WATER PILE DRIVING DURATIONS

Method	Pile type	Pile size (inch)	Pile number	Time to vibratory drive per pile/strikes to impact drive per pile	Duration (days)
Vibratory removal	Timber	14	215	900 seconds	11
Vibratory removal	Steel	24	103	1200 seconds	8
Vibratory driving	Steel	24	101	1200 seconds	7
Vibratory driving	Steel	30	17	1200 seconds	3
Vibratory driving	Steel	36	205	1200 seconds	26
Impact driving	Steel	30	14	3000 strikes	2
Impact driving	Steel	36	201	3000 strikes	26
Total			856		83

Specified Geographic Region

The proposed activities will occur at the Seattle Ferry Terminal at Colman Dock, located in the City of Seattle, Washington (see Figure 1–2 of the IHA application).

Detailed Description of In-Water Pile Driving Associated With Seattle Multimodal Project

The proposed project has two elements involving noise production that may affect marine mammals: Vibratory hammer driving and removal, and impact hammer driving.

Details of pile driving activities are provided below:

- The 14-inch timber piles will be removed with a vibratory hammer (Table 1).
- The 24-inch temporary piles will be installed and removed with a vibratory hammer (no proofing) (Table 1).
- Some of the permanent 30- and 36-inch steel piles would be installed with a vibratory hammer, and some would be installed with impact hammer (Table 1).

(1). Vibratory Hammer Driving and Removal

Vibratory hammers are commonly used in steel pile driving where sediments allow and involve the same vibratory hammer used in pile removal. The pile is placed into position using a choker and crane, and then vibrated between 1,200 and 2,400 vibrations per minute. The anticipated time required (based on WSDOT prior experience) to install a 14″ timber pile is up to 900 seconds; for a 24″ steel pile 1200 seconds; and for a 30″ or 36″ steel pile 2700 seconds. The vibrations liquefy the sediment surrounding the pile allowing it to penetrate to the required seating depth, or to be removed. The type of vibratory hammer that will be used for the project will likely be an APE 400 King Kong (or equivalent) with a drive force of 361 tons.

(2). Impact Hammer Installation

Impact hammers are used to install plastic/steel core, wood, concrete, or steel piles. An impact hammer is a steel device that works like a piston. Impact hammers are usually large, though small impact hammers are used to install small diameter plastic/steel core piles.

Impact hammers have guides (called a lead) that hold the hammer in alignment with the pile while a heavy piston moves up and down, striking the top of the pile, and drives it into the substrate from the downward force of the hammer on the top of the pile.

To drive the pile, the pile is first moved into position and set in the proper location using a choker cable. Once the pile is set in place, pile installation with an impact hammer is expected to require approximately 45 minutes. It is expected that for each 30 inch and 36 inch steel pile, a maximum of 3,000 strikes would be needed to install a pile.

It is possible that more than 1 vibratory pile driving, up to 3 hammers, could be conducted concurrently for the 24-, 30-, and 36-inch piles.

Proposed mitigation, monitoring, and reporting measures are described in in detail later in the document (Mitigation

section and Monitoring and Reporting section).

Description of Marine Mammals in the Area of Specified Activities

The marine mammal species under NMFS jurisdiction that have the potential to occur in the proposed construction area include Pacific harbor seal (*Phoca vitulina*), California sea lion (*Zalophus californianus*), northern elephant seal (*Mirounga angustirostris*), Steller sea lion (*Eumetopias jubatus*), killer whale (*Orcinus orca*), long-beaked common dolphin (*Delphis capensis*), gray whale (*Eschrichtius robustus*), humpback whale (*Megaptera novaeangliae*), minke whale (*Balaenoptera acutorostrata*), harbor porpoise (*Phocoena phocoena*), and Dall's porpoise (*P. dalli*). A list of marine mammals that have the potential to occur in the vicinity of the action and their legal status under the MMPA and ESA are provided in Table 2. Among these species, northern elephant seal, minke whale, and long-beaked common dolphin are extralimital in the proposed project area. NMFS does not consider take is likely to occur for these species. Therefore, these species are not discussed further in this document.

TABLE 2—MARINE MAMMAL SPECIES POTENTIALLY PRESENT IN REGION OF ACTIVITY

Species	ESA status	MMPA status	Occurrence	Abundance
Harbor Seal	Not listed	Non-depleted	Frequent	Unk
California Sea Lion	Not listed	Non-depleted	Frequent	296,750
Northern Elephant Seal	Not listed	Non-depleted	Extralimital	179,000
Steller Sea Lion (eastern DPS)	Not listed	Non-depleted	Rare	71,256
Harbor Porpoise	Not listed	Non-depleted	Frequent	11,233
Dall's Porpoise	Not listed	Non-depleted	Occasional	25,750
Killer Whale (Southern Resident)	Endangered	Depleted	Occasional	78
Killer Whale (West Coast transient)	Not listed	Non-depleted	Occasional	243
Long-beaked Common Dolphin	Not listed	Non-depleted	Extralimital	101,305
Gray Whale	Not listed	Non-depleted	Occasional	20,990
Humpback Whale	Endangered	Depleted	Rare	1,918
Minke Whale	Not listed	Non-depleted	Extralimital	636

General information on the marine mammal species found in Washington coastal waters can be found in Caretta *et al.* (2016), which is available online at: *http://www.nmfs.noaa.gov/pr/sars/pdf/pacific2015_final.pdf.* Refer to that document for information on these species. Specific information concerning these species in the vicinity of the proposed action area is provided in detail in the WSDOT's IHA application.

Harbor Seal

There are three stocks in Washington's inland waters, the Hood Canal, Northern Inland Waters, and Southern Puget Sound stocks. Seals belonging to the Northern Inland Waters Stock are present at the project site. Pupping seasons vary by geographic region. For the northern Puget Sound region, pups are born from late June through August (WDFW 2012). After October 1, all pups in the inland waters of Washington are weaned. Of the pinniped species that commonly occur within the region of activity, harbor seals are the most common and the only pinniped that breeds and remains in the inland marine waters of Washington year-round (Calambokidis and Baird 1994).

In 1999, Jeffries *et al.* (2003) recorded a mean count of 9,550 harbor seals in Washington's inland marine waters, and estimated the total population to be approximately 14,612 animals (including the Strait of Juan de Fuca). According to the 1999 Stock Assessment Report (SAR), the most recent estimate for the Washington Northern Inland Waters Stock is 11,036 (NMFS 1999). No minimum population estimate is available. However, there are an estimated 32,000 harbor seals in Washington today, and their population appears to have stabilized (Jeffries 2013), so the estimate of 11,036 may be low.

The nearest documented harbor seal haulout to the Seattle Ferry Terminal is 10.6 kilometers (km)/6.6 miles (mi) west on Blakely Rocks, though harbor seals also make use of docks, buoys and beaches in the area. The level of use of this haulout during the fall and winter is unknown, but is expected to be much less as air temperatures become colder than water temperatures resulting in seals in general hauling out less. None of the harbor seals have been spotted using Colman Dock as a haulout. Harbor seals are known to haulout opportunistically on docks and beaches throughout the project area.

During the 2012 Seattle Slip 2 Batter Pile project, 6 harbor seals were observed during this one day project in the area that corresponds to the upcoming project zones of influence (ZOIs) where received sound levels are above 160 decibel (dB) re 1 micropascal (μPa) and Level B harassment is anticipated to occur (WSF 2012). During the 2016 Seattle Test Pile project, 56 harbor seals were observed over 10 days in the area that corresponds to the upcoming project ZOIs. The maximum number sighted during 1day was 13 (WSF 2016).

The Navy Marine Species Density Database (U.S. Navy 2015) estimates the density of harbor seals in the Seattle area as a range of 0.550001 and 1.219000 animals per square kilometer.

California Sea Lion

Washington California sea lions are part of the U.S. stock, which begins at the U.S./Mexico border and extends northward into Canada. The minimum population size of the U.S. stock was estimated at 296,750 in 2011. More recent pup counts made in 2011 totaled 61,943, the highest recorded to date. Estimates of total population size based on these counts are currently being developed (NMFS 2015d). Some 3,000 to 5,000 animals are estimated to move into northwest waters (both Washington and British Columbia) during the fall (September) and remain until the late spring (May) when most return to breeding rookeries in California and Mexico (Jeffries *et al.,* 2000). Peak counts of over 1,000 animals have been made in Puget Sound (Jeffries *et al.,* 2000).

The nearest documented California sea lion haulout sites are 3 km/2 mi southwest of the Seattle Ferry Terminal, although sea lions also make use of docks and other buoys in the area.

During the 2012 Seattle Slip 2 Batter Pile project, 15 California sea lions were observed during this 1 day project in the area that corresponds to the upcoming project ZOIs (WSF 2012). During the

2016 Seattle Test Pile project, 12 California sea lions were observed over 10 days in the area that corresponds to the upcoming project ZOIs. The maximum number sighted during one day was 4 (WSF 2016).

The Navy Marine Species Density Database (U.S. Navy 2015) estimates the density of California sea lions in the Seattle area as a range of 0.067601 and 0.12660 animals per square kilometer.

Steller Sea Lion

The Eastern U.S. stock of Steller sea lion may be present near the project site. The eastern U.S. stock of Steller sea lions is estimated to be 71,562 based on pup and non-pup counts. In Washington waters, Steller sea lion abundances vary seasonally with a minimum estimate of 1,000 to 2,000 individuals present or passing through the Strait of Juan de Fuca in fall and winter months.

Steller sea lion numbers in Washington State decline during the summer months, which correspond to the breeding season at Oregon and British Columbia rookeries (approximately late May to early June) and peak during the fall and winter months (WDFW 2000). According to NMFS Marine Mammal Stock Assessment Report, a new rookery has become established on the outer Washington coast with over 100 pups born there in 2015 (NMFS 2016). A few Steller sea lions can be observed year-round in Puget Sound although most of the breeding age animals return to rookeries in the spring and summer.

The nearest documented Steller sea lion haulout sites are 15 km/9 mi southwest of the Seattle Ferry Terminal (WSDOT 2016a).

During the 2012 Seattle Slip 2 Batter Pile project, 0 Steller sea lions were observed during this one day project in the area that corresponds to the upcoming project ZOIs (WSF 2012). During the 2016 Seattle Test Pile project, 0 Steller sea lions were observed over 10 days in the area that corresponds to the upcoming project ZOIs (WSF 2016).

The Navy Marine Species Density Database (U.S. Navy 2015) estimates the density of Steller sea lions in the Seattle area as a range of 0.025101 and 0.036800 animals per square kilometer.

Killer Whale

The Eastern North Pacific Southern Resident (SRKW) and West Coast Transient (Transient) stocks of killer whale may be found near the project site. The Southern Resident killer whales live in three family groups known as the J, K and L pods. As of December 31, 2015, the stock collectively numbers 78 individuals (CWR 2016). Transient killer whales generally occur in smaller (less than 10 individuals), less structured pods (NMFS 2013c). According to the Center for Whale Research (CWR 2015), they tend to travel in small groups of one to five individuals, staying close to shorelines, often near seal rookeries when pups are being weaned. The West Coast Transient stock, which includes individuals from California to southeastern Alaska, is has a minimum population estimate of 243, which does not include an estimate of the number of whales in California (NMFS 2013b).

The SRKW and West Coast Transient stocks are both found within Washington inland waters. Individuals of both stocks have long-ranging movements and regularly leave the inland waters (Calambokidis and Baird 1994).

During the 2012 Seattle Slip 2 Batter Pile project, 0 SRKW were observed during this one day project in the area that corresponds to the upcoming project ZOIs (WSF 2012). During the 2016 Seattle Test Pile project, 0 SRKW were observed over 10 days in the area that corresponds to the upcoming project ZOIs (WSF 2016).

The Navy Marine Species Density Database (U.S. Navy 2014) estimates the density of Southern Resident killer whales in the Seattle area as a range of 0.001461 and 0.020240 animals per square kilometer.

According to the NMFS National Stranding Database, there were no killer whale strandings in the Seattle and Island County areas between 2010 and 2014 (NMFS 2016).

The West Coast Transient killer whale sightings have become more common since mid-2000. Unlike the SRKW pods, transients may be present in an area for hours or days as they hunt pinnipeds.

During the 2012 Seattle Slip 2 Batter Pile project, 0 transients were observed during this one day project in the area that corresponds to the upcoming project ZOIs (WSF 2012). During the 2016 Seattle Test Pile project, 0 transients were observed over 10 days in the area that corresponds to the upcoming project ZOIs (WSF 2016). However, on February 5, 2016, a pod of up to 7 transients were reported in the area that corresponds to the upcoming project ZOIs (Orca Network Archive Report 2016).

The Navy Marine Species Density Database (U.S. Navy 2015) estimates the density of west coast transient killer whales in the Seattle area as a range of 0.000575 and 0.002373 animals per square kilometer.

Gray Whale

The Eastern North Pacific gray whale may be found near the project site. The most recent population estimate for the Eastern North Pacific stock is 20,990 individuals (NMFS 2015e). Within Washington waters, gray whale sightings reported to Cascadia Research and the Whale Museum between 1990 and 1993 totaled over 1,100 (Calambokidis *et al.,* 1994). Abundance estimates calculated for the small regional area between Oregon and southern Vancouver Island, including the San Juan Area and Puget Sound, suggest there were 137 to 153 individual gray whales from 2001 through 2003 (Calambokidis *et al.* 2004a). Forty-eight individual gray whales were observed in Puget Sound and Hood Canal in 2004 and 2005.

During the 2012 Seattle Slip 2 Batter Pile project, 0 gray whales were observed during this one day project in the area that corresponds to the upcoming project ZOIs (WSF 2012). During the 2016 Seattle Test Pile project, 0 gray whales were observed over 10 days in the area that corresponds to the upcoming project ZOIs (WSF 2016).

The Navy Marine Species Density Database (U.S. Navy 2014) estimates the density of gray whales in the Seattle area as a range of 0.000002 to 0.000510 animals per square kilometer.

Humpback Whale

The California-Oregon-Washington (CA-OR-WA) stock of humpback whale may be found near the project site. In 2016, NMFS has identified three Distinct Population Segments (DPSs) of humpback whales off the coast of Washington, Oregon, and California. These are: The Hawaii DPS (found predominately off Washington and southern British Columbia), which is not listed under the ESA; the Mexico DPS (found all along the coast), which is listed as threatened under the ESA; and the Central America DPS (found all along the coast), which is listed as endangered under the ESA.

From August to November 2015, WSDOT conducted marine mammal monitoring during tank farm pier removal at the Seattle Multimodal Project. During 51 days of monitoring, one humpback whale was observed within the ZOI on November 4, 2015.

During the 2012 Seattle Slip 2 Batter Pile project, 0 humpback whales were observed during this one day project in the area that corresponds to the upcoming project ZOIs (WSF 2012). During the 2016 Seattle Test Pile project, 0 humpback whales were

observed over 10 days in the area that corresponds to the upcoming project ZOIs (WSF 2016).

The Navy Marine Species Density Database (U.S. Navy 2015) estimates the density of humpback whales in the Seattle area as a range between 0.000010 and 0.00070 animals per square kilometer.

Harbor Porpoise

The Washington Inland Waters Stock of harbor porpoise may be found near the project site. The Washington Inland Waters Stock occurs in waters east of Cape Flattery (Strait of Juan de Fuca, San Juan Island Region, and Puget Sound).

Aerial surveys of the Washington and southern British Columbia were conducted from 2013 to 2015 (Smultea *et al.* 2015). These aerial surveys included the Strait of Juan de Fuca, San Juan Islands, Gulf Island, Strait of Georgia, Puget Sound, and Hood Canal. The surveys showed that for U.S. waters, the current estimate for Washington inland water stock harbor porpoise is 11,233 (NMFS 2016).

During the 2012 Seattle Slip 2 Batter Pile project, 0 harbor porpoise were observed during this one day project in the area that corresponds to the upcoming project ZOIs (WSF 2012). During the 2016 Seattle Test Pile project, 0 harbor porpoise were observed over 10 days in the area that corresponds to the upcoming project ZOIs (WSF 2016).

The Navy Marine Species Density Database (U.S. Navy 2014) estimates the density of harbor porpoise during the timeframe scheduled for this project in the Seattle area as a range between 0.061701 and 0.156000 animals/km^2 (U.S. Navy 2014).

Dall's Porpoise

The California, Oregon, and Washington Stock of Dall's porpoise may be found near the project site. The most recent estimate of Dall's porpoise stock abundance is 25,750, based on 2005 and 2008 summer/autumn vessel-based line transect surveys of California, Oregon, and Washington waters (NMFS 2011d). Within the inland waters of Washington and British Columbia, this species is most abundant in the Strait of Juan de Fuca east to the San Juan Islands. The most recent Washington's inland waters estimate is 900 animals (Calambokidis *et al.* 1997), though sightings have become rarer since then. Prior to the 1940s, Dall's porpoises were not reported in Puget Sound.

During the 2012 Seattle Slip 2 Batter Pile project, 0 Dall's porpoise were observed during this one day project in the area that corresponds to the upcoming project ZOIs (WSF 2012). During the 2016 Seattle Test Pile project, 0 Dall's porpoise were observed over 10 days in the area that corresponds to the upcoming project ZOIs (WSF 2016).

The Navy Marine Species Density Database (U.S. Navy 2014) estimates the density of Dall's porpoises in the Seattle area as a range between 0.018858 and 0.047976 animals per square kilometer.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The ''Estimated Take'' 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 Analyses and Determination'' section will consider the content of this section, the ''Estimated Take by Incidental Harassment'' section, and the ''Mitigation'' section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

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 derived using auditory evoked potentials, anatomical modeling, and other data, NMFS (2016) to designate ''marine mammal hearing groups'' for marine mammals and estimate the lower and upper frequencies of hearing of the groups. The marine mammal 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 hearing range):

- Low frequency cetaceans (13 species of mysticetes): Functional hearing is estimated to occur between approximately 7 hertz (Hz) and 35 kilohertz (kHz);
- Mid-frequency cetaceans (32 species of dolphins, seven species of larger toothed whales, and 19 species of beaked and bottlenose whales): Functional hearing is estimated to occur between approximately 150 Hz and 160 kHz;
- High frequency cetaceans (eight species of true porpoises, seven species of river dolphins, Kogia, the franciscana, and four species of cephalorhynchids): Functional hearing is estimated to occur between approximately 275 Hz and 160 kHz;
- Phocid pinnipeds in Water: Functional hearing is estimated to occur between approximately 50 Hz and 86 kHz; and
- Otariid pinnipeds in Water: Functional hearing is estimated to occur between approximately 60 Hz and 39 kHz.

As mentioned previously in this document, eight marine mammal species (five cetacean and four pinniped species) are likely to occur in the vicinity of the Seattle pile driving/removal area. Of the five cetacean species, three belong to the low-frequency cetacean group (gray and humpback whales), one is a mid-frequency cetacean (killer whale), and two high-frequency cetacean (harbor and Dall's porpoises). One species of pinniped is phocid (harbor seal), and two species of pinniped are otariid (California and Steller sea lions). A species' functional hearing group is a consideration when we analyze the effects of exposure to sound on marine mammals.

The WSDOT's Seattle Colman ferry terminal construction work using in-water pile driving and pile removal could adversely affect marine mammal species and stocks by exposing them to elevated noise levels in the vicinity of the activity area.

Exposure to high intensity sound for a sufficient duration may result in auditory effects such as a noise-induced threshold shift—an increase in the auditory threshold after exposure to noise (Finneran *et al.,* 2005). Factors that influence the amount of threshold shift include the amplitude, duration, frequency content, temporal pattern, and energy distribution of noise exposure. The magnitude of hearing threshold shift normally decreases over time following cessation of the noise exposure. The amount of threshold shift just after exposure is the initial threshold shift. If the threshold shift eventually returns to zero (*i.e.,* the threshold returns to the pre-exposure value), it is a temporary threshold shift (Southall *et al.,* 2007).

Threshold Shift (noise-induced loss of hearing)—When animals exhibit reduced hearing sensitivity (*i.e.,* sounds must be louder for an animal to detect them) following exposure to an intense sound or sound for long duration, it is referred to as a noise-induced threshold shift (TS). An animal can experience

temporary threshold shift (TTS) or permanent threshold shift (PTS). TTS can last from minutes or hours to days (*i.e.,* there is complete recovery), can occur in specific frequency ranges (*i.e.,* an animal might only have a temporary loss of hearing sensitivity between the frequencies of 1 and 10 kHz), and can be of varying amounts (for example, an animal's hearing sensitivity might be reduced initially by only 6 dB or reduced by 30 dB). PTS is permanent, but some recovery is possible. PTS can also occur in a specific frequency range and amount as mentioned above for TTS.

For marine mammals, published data are limited to the captive bottlenose dolphin, beluga, harbor porpoise, and Yangtze finless porpoise (Finneran *et al.,* 2000, 2002, 2003, 2005, 2007, 2010a, 2010b; Finneran and Schlundt, 2010; Lucke *et al.,* 2009; Mooney *et al.,* 2009a, 2009b; Popov *et al.,* 2011a, 2011b; Kastelein *et al.,* 2012a; Schlundt *et al.,* 2000; Nachtigall *et al.,* 2003, 2004). For pinnipeds in water, data are limited to measurements of TTS in harbor seals, an elephant seal, and California sea lions (Kastak *et al.,* 1999, 2005; Kastelein *et al.,* 2012b).

Lucke *et al.* (2009) found a TS of a harbor porpoise after exposing it to airgun noise with a received sound pressure level (SPL) at 200.2 dB (peak-to-peak) re: 1 μPa, which corresponds to a sound exposure level of 164.5 dB re: 1 μPa^2 s after integrating exposure. NMFS currently uses the root-mean-square (rms) of received SPL at 180 dB and 190 dB re: 1 μPa as the threshold above which PTS could occur for cetaceans and pinnipeds, respectively. Because the airgun noise is a broadband impulse, one cannot directly determine the equivalent of rms SPL from the reported peak-to-peak SPLs. However, applying a conservative conversion factor of 16 dB for broadband signals from seismic surveys (McCauley *et al.,* 2000) to correct for the difference between peak-to-peak levels reported in Lucke *et al.* (2009) and rms SPLs, the rms SPL for TTS would be approximately 184 dB re: 1 μPa, and the received levels associated with PTS (Level A harassment) would be higher. However, NMFS recognizes that TTS of harbor porpoises is lower than other cetacean species empirically tested (Finneran & Schlundt, 2010; Finneran *et al.,* 2002; Kastelein and Jennings, 2012).

Marine mammal hearing plays a critical role in communication with conspecifics, and interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious (similar to those discussed in auditory masking, below). For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that occurs during a time where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts. Also, depending on the degree and frequency range, the effects of PTS on an animal could range in severity, although it is considered generally more serious because it is a permanent condition. Of note, reduced hearing sensitivity as a simple function of aging has been observed in marine mammals, as well as humans and other taxa (Southall *et al.,* 2007), so one can infer that strategies exist for coping with this condition to some degree, though likely not without cost.

In addition, chronic exposure to excessive, though not high-intensity, noise could cause masking at particular frequencies for marine mammals that utilize sound for vital biological functions (Clark *et al.,* 2009). Acoustic masking is when other noises such as from human sources interfere with animal detection of acoustic signals such as communication calls, echolocation sounds, and environmental sounds important to marine mammals. Therefore, under certain circumstances, marine mammals whose acoustical sensors or environment are being severely masked could also be impaired from maximizing their performance fitness in survival and reproduction.

Masking occurs at the frequency band that the animals utilize. Therefore, since noise generated from vibratory pile driving activity is mostly concentrated at low frequency ranges, it may have less effect on high frequency echolocation sounds by odontocetes (toothed whales). However, lower frequency man-made noises are more likely to affect detection of communication calls and other potentially important natural sounds such as surf and prey noise. It may also affect communication signals when they occur near the noise band and thus reduce the communication space of animals (*e.g.,* Clark *et al.,* 2009) and cause increased stress levels (*e.g.,* Foote *et al.,* 2004; Holt *et al.,* 2009).

Unlike TS, masking, which can occur over large temporal and spatial scales, can potentially affect the species at population, community, or even ecosystem levels, as well as individual levels. Masking affects both senders and receivers of the signals and could have long-term chronic effects on marine mammal species and populations. Recent science suggests that low frequency ambient sound levels have increased by as much as 20 dB (more than three times in terms of SPL) in the world's ocean from pre-industrial periods, and most of these increases are from distant shipping (Hildebrand, 2009). For WSDOT's Seattle Colman Ferry Terminal construction activities, noises from vibratory pile driving and pile removal contribute to the elevated ambient noise levels in the project area, thus increasing potential for or severity of masking. Baseline ambient noise levels in the vicinity of project area are high due to ongoing shipping, construction and other activities in the Puget Sound.

Finally, marine mammals' exposure to certain sounds could lead to behavioral disturbance (Richardson *et al.,* 1995), such as: Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where noise sources are located; and/or flight responses (*e.g.,* pinnipeds flushing into water from haulouts or rookeries).

The onset of behavioral disturbance from anthropogenic noise depends on both external factors (characteristics of noise sources and their paths) and the receiving animals (hearing, motivation, experience, demography) and is also difficult to predict (Southall *et al.,* 2007). Currently NMFS uses a received level of 160 dB re 1 μPa (rms) to predict the onset of behavioral harassment from impulse noises (such as impact pile driving), and 120 dB re 1 μPa (rms) for continuous noises (such as vibratory pile driving). For the WSDOT's Seattle Colman Ferry Terminal construction activities, both of these noise levels are considered for effects analysis because WSDOT plans to use both impact and vibratory pile driving, as well as vibratory pile removal.

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could be biologically

significant if the change affects growth, survival, and/or reproduction, which depends on the severity, duration, and context of the effects.

Potential Effects on Marine Mammal Habitat

The primary potential impacts to marine mammal habitat are associated with elevated sound levels produced by pile driving and removal associated with marine mammal prey species. However, other potential impacts to the surrounding habitat from physical disturbance are also possible. These potential effects are discussed below.

SPLs from impact pile driving has the potential to injure or kill fish in the immediate area. These few isolated fish mortality events are not anticipated to have a substantial effect on prey species population or their availability as a food resource for marine mammals.

Studies also suggest that larger fish are generally less susceptible to death or injury than small fish. Moreover, elongated forms that are round in cross section are less at risk than deep-bodied forms. Orientation of fish relative to the shock wave may also affect the extent of injury. Open water pelagic fish (*e.g.,* mackerel) seem to be less affected than reef fishes. The results of most studies are dependent upon specific biological, environmental, explosive, and data recording factors.

The huge variation in fish populations, including numbers, species, sizes, and orientation and range from the detonation point, makes it very difficult to accurately predict mortalities at any specific site of detonation. Most fish species experience a large number of natural mortalities, especially during early life-stages, and any small level of mortality caused by the WSDOT's impact pile driving will likely be insignificant to the population as a whole.

For non-impulsive sound such as that of vibratory pile driving, experiments have shown that fish can sense both the strength and direction of sound (Hawkins, 1981). Primary factors determining whether a fish can sense a sound signal, and potentially react to it, are the frequency of the signal and the strength of the signal in relation to the natural background noise level.

The level of sound at which a fish will react or alter its behavior is usually well above the detection level. Fish have been found to react to sounds when the sound level increased to about 20 dB above the detection level of 120 dB (Ona, 1988); however, the response threshold can depend on the time of year and the fish's physiological condition (Engas *et al.,* 1993).

During construction activity at Colman Dock, only a small fraction of the available habitat would be ensonified at any given time. Disturbance to fish species would be short-term and fish would return to their pre-disturbance behavior once the pile driving activity ceases. Thus, the proposed construction would have little, if any, impact on the abilities of marine mammals to feed in the area where construction work is planned.

Finally, the time of the proposed construction activity would avoid the spawning season of the ESA-listed salmonid species between March and July.

Short-term turbidity is a water quality effect of most in-water work, including pile driving.

Cetaceans are not expected to be close enough to the Colman terminal to experience 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.

For these reasons, WSDOT's proposed Seattle Multimodal construction at Colman Dock is not expected to have adverse effects to marine mammal habitat in the area.

Estimated Take

This section includes an estimate of the number of incidental ''takes'' likely to occur pursuant to this IHA, which will inform both NMFS' consideration of whether the number of takes is ''small'' and the negligible impact determination.

Harassment is the only means of take expected to result from these activities. 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).

As described previously in the section Potential Effects of Specified Activities on Marine Mammals and their Habitat, no incidental take is anticipated to result from effects on prey species or as a result of turbidity. Level B Harassment is expected to occur as discussed below and is proposed to be authorized in the numbers identified below.

As described below, a small number of takes by Level A Harassment are being proposed to be authorized.

The death of a marine mammal is also a type of incidental take. However, as described previously, no mortality is anticipated or proposed to be authorized to result from this activity.

Basis for Takes

Take estimates are based on average marine mammal density in the project area multiplied by the area size of ensonified zones within which received noise levels exceed certain thresholds (*i.e.,* Level A and/or Level B harassment) from specific activities, then multiplied by the total number of days such activities would occur. Certain adjustments were made for marine mammals whose local abundance are known through long-term monitoring efforts. Therefore, their local abundance data are used for take calculation instead of general animal density (see below).

Basis for Threshold Calculation

As discussed above, in-water pile removal and pile driving (vibratory and impact) generate loud noises that could potentially harass marine mammals in the vicinity of WSDOT's proposed Seattle Multimodal Project at Colman Dock.

Under the NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Guidance), dual criteria are used to assess marine mammal auditory injury (Level A harassment) as a result of noise exposure (NMFS 2016). The dual criteria under the Guidance provide onset thresholds in instantaneous peak SPLs (L_{pk}) as well as 24-hr cumulative sound exposure levels (SEL_{cum} or L_E) that could cause PTS to marine mammals of different hearing groups. The peak SPL is the highest positive value of the noise field, log transformed to dB in reference to 1 µPa.

$$(1)\quad L_{pk} = \max\left\{10\log_{10}\left(\frac{p(t)}{p_{ref}}\right)^2\right\}$$

where $p(t)$ is acoustic pressure in pascal or micropascal, and p_{ref} is reference acoustic pressure equal to 1 µPa.

The cumulative SEL is the total sound exposure over the entire duration of a given day's pile driving activity, specifically, pile driving occurring within a 24-hr period.

$$(2)\quad L_E = 10\log_{10}\left(\int_{t_1}^{t_2}\left(\frac{p(t)}{p_{ref}}\right)^2 dt\right)$$

where $p(t)$ is acoustic pressure in pascal or micropascal, p_{ref} is reference acoustic pressure equals to 1 µPa, t_1 marks the beginning of the time, and t_2 the end of time.

For onset of Level B harassment, NMFS continues to use the root-mean-square (rms) sound pressure level (SPL_{rms}) at 120 dB re 1 µPa and 160 dB re 1 µPa as the received levels from non-impulse (vibratory pile driving and removal) and impulse sources (impact pile driving) underwater, respectively. The SPL_{rms} for pulses (such as those from impact pile driving) should contain 90 percent of the pulse energy, and is calculated by

$$(3)\ SPL_{rms} = 10\log_{10}\left(\frac{1}{T}\int_{t_1}^{t_2}\left(\frac{p(t)}{p_{ref}}\right)^2 dt\right)$$

where $p(t)$ is acoustic pressure in pascal or micropascal, p_{ref} is reference acoustic pressure equals to 1 µPa, t_1 marks the beginning of the time, and t_2 the end of time. In the case of an impulse noise, t_1 marks the time of 5 percent of the total energy window, and t_2 the time of 95 percent of the total energy window.

Table 3 summarizes the current NMFS marine mammal take criteria.

TABLE 3—CURRENT ACOUSTIC EXPOSURE CRITERIA FOR NON-EXPLOSIVE SOUND UNDERWATER

Hearing group	PTS onset thresholds		Behavioral thresholds	
	Impulsive	Non-impulsive	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	$L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	$L_{E,LF,24h}$: 199 dB.		
Mid-Frequency (MF) Cetaceans	$L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	$L_{E,MF,24h}$: 198 dB.		
High-Frequency (HF) Cetaceans	$L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	$L_{E,HF,24h}$: 173 dB	$L_{rms,flat}$: 160 dB	$L_{rms,flat}$: 120 dB.
Phocid Pinnipeds (PW) (Underwater)	$L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	$L_{E,PW,24h}$: 201 dB.		
Otariid Pinnipeds (OW) (Underwater)	$L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	$L_{E,OW,24h}$: 219 dB.		

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

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

Sound Levels and Acoustic Modeling for the Proposed Construction Activity

Source Levels

The project includes vibratory removal of 14-inch (in) timber piles, vibratory driving and removal of 24-in steel piles, vibratory driving of 30- and 36-in steel piles, and impact pile driving of 30- and 36-in steel piles. In February of 2016, WSDOT conducted a test pile project at Colman Dock in order to gather data to select the appropriate piles for the project. The test pile project measured impact pile driving of 24- and 36-in steel piles. The measured results from the project are used here to provide source levels for the prediction of isopleths ensonified over thresholds for the Seattle project. The results show that the SPL_{rms} for impact pile driving of 36-in steel pile is 189 dB re 1 µPa at 14 m from the pile (WSDOT 2016b). This value is also used for impact driving of the 30-in steel piles, which is a precautionary approach.

Source level of vibratory pile driving of 36-in steel piles is based on test pile driving at Port Townsend in 2010 (Laughlin 2011). Recordings of vibratory pile driving were made at a distance of 10 m from the pile. The results show that the SPL_{rms} for vibratory pile driving of 36-in steel pile was 177 dB re 1 µPa (WSDOT 2016a).

Up to three pile installation crews may be active during the day within the project footprint. Each crew will use one vibratory and one impact hammer, and it is possible that more than one vibratory or impact hammer may be active at the same time for pile driving and/or removal for the 24-, 30-, and 36-inch piles. Overlapping noise fields created by multiple hammer use are handled differently for impact and vibratory hammers. When more than one impact hammer is being used close enough to another impact hammer, the cumulative acoustic energy is accounted for by including all hammer strikes. When more than one vibratory hammer is being used close enough to another vibratory hammer to create overlapping noise fields, additional sound levels are added to account for the overlap, creating a larger ZOI. A simplified nomogram method (Kinsler *et al.,* 2000) is proposed to account for the addition of noise source levels for multiple vibratory hammers, as shown in Table 4. Using this method, the source levels of 24-, 30-, and 36-in piles during vibratory pile driving are adjusted to 182 dB re 1 µPa (at 10 m).

TABLE 4—MULTIPLE SOUND LEVEL ADDITION

When two sound levels differ by	Add the following to the higher level (dB)
0–1 dB	3
2–3 dB	2
4–9 dB	1
>10 dB	0

For vibratory pile removal, vibratory pile driving data were used as proxies because we conservatively consider noises from pile removal would be the same as those from pile driving.

The source level of vibratory removal of 14-in timber piles were based on measurements conducted at the Port Townsend Ferry Terminal during vibratory removal of a 12-inch timber pile by WSDOT (Laughlin 2011). The recorded source level is 152 dB re 1 µPa at 16 m from the pile. In the absence of

spectral data for timber pile vibratory driving, the weighting factor adjustment (WFA) recommended by NMFS acoustic guidance (NMFS 2016) was used to determine these zones.

These source levels are used to compute the Level A ensonified zones and to estimate the Level B harassment zones. For Level A harassment zones, zones calculated using cumulative SEL are all larger than those calculated using SPL_{peak}, therefore, only zones based on cumulative SEL for Level A harassment are used.

Estimating Injury Zones

Calculation and modeling of applicable ensonified zones are based on source measurements of comparable types and sizes of piles driven by different methods (impact vs. vibratory hammers) either during the Colman test pile driving or at a different location within the Puget Sound. As mentioned earlier, isopleths for injury zones are based on cumulative SEL (L_E) criteria.

For peak SPL (L_{pk}), distances to marine mammal injury thresholds were calculated using a simple geometric spreading model using a transmission loss coefficient of 15:

(4) $SL_{Measure} = EL + 15\log_{10}(R - D_{Measure})$

where $SL_{Measure}$ is the measured source level in dB re 1 µPa, EL is the specific received level of threshold, $D_{Measure}$ is the distance (m) from the source where measurements were taken, and R is the distance (radius) of the isopleth to the source in meters.

For cumulative SEL (L_E), distances to marine mammal exposure thresholds were computed using spectral modeling that incorporates frequency specific absorption. First, representative pile driving sounds recorded during test pile driving with impact and vibratory hammers were used to generate power spectral densities (PSDs), which describe the distribution of power into frequency components composing that sound, in 1-Hz bins. Parserval's theorem, which states that the sum of the square of a function is equal to the sum of the square of its transform, was applied to ensure that all energies within a strike (for impact pile driving) or a given period of time (for vibratory pile driving) were captured through the fast Fourier transform, an algorithm that converts the signal from its original domain (in this case, time series) to a representation in frequency domain. For impact pile driving, broadband PSDs were generated from SPL_{rms} time series of a total of 270 strikes with a time window that contains 90 percent of pulse energy. For vibratory pile driving, broadband PSDs were generated from a series of continuous 1-second SEL. Broadband PSDs were then adjusted based on weighting functions of marine mammal hearing groups (Finneran 2016) by using the weighting function as a band-pass filter. For impact pile driving, cumulative exposures (E_{sum}) were computed by multiplying the single rms pressure squared by rms pulse duration for the specific strike, then by the number of strikes (provided in Table 1) required to drive one pile, then by the number of piles to be driven in a given day, as shown in the equation below:

$$(5)\quad E_{sum} = \sum_{i=1}^{N} p_{rms,i}^2 \tau_i N_s$$

where $p_{rms,i}$ is the rms pressure, τ is the rms pulse duration for the specific strike, N_s is the anticipated number of strikes (provided in Table 1) needed to install one pile, and N is the number of total piles to be installed.

For vibratory pile driving, cumulative exposures were computed by summing 1-second noise exposure by the duration needed to drive on pile (provided in Table 1), then by the number of piles to be driven in a given day, as shown in the equation below:

$$(6)\quad E_{sum} = \sum_{i=1}^{N} E_{1s,i} \Delta t_i$$

where E_{1s} is the 1-second noise exposure, and Δt is the duration (provided in Table 1) need to install 1 pile by vibratory piling.

Frequency-specific transmission losses, $TL(f)$, were then computed using practical spreading along with frequency-specific absorption coefficients that were computed with nominal seawater properties (*i.e.,* salinity = 35 psu, pH = 8.0) at 15 °C at the surface by

$$TL(f) = 15\log_{10}(R) + \alpha(f)R/1000 \qquad (7)$$

where $a(f)$ is dB/km, and R is the distance (radius) of the specific isopleth to the source in meters. For broadband sources such as those from pile driving, the transmission loss is the summation of the frequency-specific results.

Approach To Estimate Behavioral Zones

As mentioned earlier, isopleths to Level B behavioral zones are based on root-mean-square SPL (SPL_{rms}) that are specific for impulse (impact pile driving) and non-impulse (vibratory pile driving) sources. Distances to marine mammal behavior thresholds were calculated using a simple geometric spreading equation as shown in Equation (4).

For Level B harassment zones from vibratory pile driving of 30 inch and 36 inch piles, the ensonified zones are calculated based on practical spreading of back-calculated source level of 36 inch pile driving adjusted for 3 hammers operating concurrently by adding 5 dB. The results show that the 120 dB re 1 µPa isopleth is at 13.6 km. For Level B harassment zone from vibratory pile driving of 24″ piles, WSDOT conducted site measurements during Seattle test pile driving project using 24″ steel piles. The results show that underwater noise cannot be detected at a distance of 5 km (3 mi). Since this measurement was based on pile driving using 1 hammer, the Level B harassment zone for 24 inch steel pile

is adjusted by factoring in a 5 dB difference (see above) using the following equation, based on the inverse law of acoustic propagation (*i.e.,* dB difference in transmission loss is the inverse of distance difference in logarithm):

$$(5)\quad \left| dB_{difference} \right| = 15 \times \log 10 \left(\frac{R_{3\text{-hammer}}}{R_{1\text{-hammer}}} \right)$$

where $dB_{difference}$ is the 5 dB difference, $R_{3\text{-hammer}}$ is the distance from the pile where piling noise is no longer audible, and $R_{1\text{-hammer}}$ is the measured distance from the pile where piling noise is no longer audible, which is 5 km.

The result show that when using 3 vibratory hammers concurrently, the distance from the pile to where pile noise is no longer audible is 11 km.

A summary of the measured and modeled harassment zones is provided in Table 5.

TABLE 5—DISTANCES TO HARASSMENT ZONES

Pile type, size & pile driving method	Injury zone (m)					Behavior zone (m)
	LF cetacean	MF cetacean	HF cetacean	Phocid	Otariid	
Vibratory 14″ timber	8	0.7	11.9	4.9	0.3	1000
Vibratory 24″ steel	255	65	1365	115	10	11000
Vibratory 30″ & 36″ steel	285	65	1455	125	10	13600
Impact 30″ & 36″ steel	1845	75	2835	465	35	1200

Estimated Takes From Proposed Construction Activity

Incidental take is estimated for each species by estimating the likelihood of a marine mammal being present within a Level A or Level B harassment zone during active pile driving or removal. The Level A calculation includes a duration component, along with an assumption (which can lead to overestimates in some cases) that animals within the zone stay in that area for the whole duration of the pile driving activity within a day. For all marine mammal species except harbor seals and California sea lions, estimated takes are calculated based on ensonified area for a specific pile driving activity multiplied by the marine mammal density in the action area, multiplied by the number of pile driving (or removal) days. Marine mammal density data are from the U.S. Navy Marine Species Density Database (Navy 2015). Harbor seal and California sea lion takes are based on observations near Seattle, since these data provide the best information on distribution and presence of these species that are often associated with nearby haulouts (see below). A summary of marine mammal density, days and Level A and Level B harassment areas from different pile driving and removal activities is provided in Table 6.

TABLE 6—SUMMARY OF MARINE MAMMAL DENSITY, DAYS AND LEVEL A AND LEVEL B ENSONIFIED AREAS FROM DIFFERENT PILE DRIVING AND REMOVAL ACTIVITIES

		Vibratory 14″ timber	Vibratory 24″ steel	Vibratory 30″ steel	Vibratory 36″ steel	Impact 30″ steel	Impact 36″ steel
Days		11	15	3	26	2	26
Species/density (km^{-2})		Level A areas (m^2)					
Pacific harbor seal	1.219000	50	41,548	49,087	49,087	394,075	394,075
California sea lion	0.12660	0.126	314	314	314	3,849	3,849
Steller sea lion	0.036800	0.126	314	314	314	3,849	3,849
Killer whale, transient	0.020240	50	13,273	13,273	13,273	17,672	17,672
Killer whale, Southern Resident	0.002373	50	13,273	13,273	13,273	17,672	17,672
Gray whale	0.000510	154	153,311	189,384	189,384	4,129,836	4,129,836
Humpback whale	0.00070	154	153,311	189,384	189,384	4,129,836	4,129,836
Harbor porpoise	0.156000	13,273	2,547,906	2,678,940	2,678,940	8,190,639	8,190,639
Dall's porpoise	0.047976	13,273	2,547,906	2,678,940	2,678,940	8,190,639	8,190,639
Species/density (km^{-2})		Level B areas (km^2)					
Pacific harbor seal	1.219000	5,419,792	58,338,838	74,290,934	74,290,934	1,926,124	1,926,124
California sea lion	0.12660	5,419,792	58,338,838	74,290,934	74,290,934	1,926,124	1,926,124
Steller sea lion	0.036800	5,419,792	58,338,838	74,290,934	74,290,934	1,926,124	1,926,124
Killer whale, transient	0.020240	5,419,792	58,338,838	74,290,934	74,290,934	1,926,124	1,926,124
Killer whale, Southern Resident	0.002373	5,419,792	58,338,838	74,290,934	74,290,934	1,926,124	1,926,124
Gray whale	0.000510	5,419,792	58,338,838	74,290,934	74,290,934	1,926,124	1,926,124
Humpback whale	0.00070	5,419,792	58,338,838	74,290,934	74,290,934	1,926,124	1,926,124
Harbor porpoise	0.156000	5,419,792	58,338,838	74,290,934	74,290,934	1,926,124	1,926,124
Dall's porpoise	0.047976	5,419,792	58,338,838	74,290,934	74,290,934	1,926,124	1,926,124

The Level A take total was further adjusted by subtracting animals expected to occur within the exclusion zone, where pile driving activities are suspended when an animal is observed in or approaching the zone (see Mitigation section). Further, the number of Level B takes was adjusted to exclude those already counted for Level A takes.

The harbor seal take estimate is based on local seal abundance information off the Seattle area from WSDOT's Seattle Slip 2 Batter Pile Project in 2012. Marine mammal visual monitoring during the Batter Pile Project indicates that a maximum of 6 harbor seals were observed in the general area of the Colman Dock project (WSDOT 2012). Based on a total of 83 pile driving days for the WSDOT Seattle Colman Dock project, it is estimated that up to 498 harbor seals could be exposed to noise levels associated with ''take''. Since 28 days would involve impact pile driving of 30 inch and 36 inch steel piles with Level A zones beyond shutdown zones (465 m vs 160 m shutdown zone), we consider that 168 harbor seals exposed during these 28 days would experience Level A harassment.

The California sea lion take estimate is based on local sea lion abundance information from the City of Seattle's Elliott Bay Sea Wall Project (City of Seattle, 2014). Marine mammal visual monitoring during the Sea Wall Project indicates that up to 15 sea lions were observed in the general area of the Colman Dock project at any given time (City of Seattle 2014). Based on a total of 83 pile driving days for the WSDOT Seattle Colman Dock project, it is estimated that up to 1245 California sea lions could be exposed to noise levels associated with ''take''. Since the Level A zones of otarrids are all very small (<35m, Table 5), we do not consider it likely that any sea lions would be taken by Level A harassment. Therefore, all California sea lion takes estimated here are expected to be taken by Level B harassment.

A summary of estimated marine mammal takes is listed in Table 7.

TABLE 7—ESTIMATED NUMBERS OF MARINE MAMMALS THAT MAY BE EXPOSED TO RECEIVED NOISE LEVELS THAT CAUSE LEVEL A OR LEVEL B HARASSMENT

Species	Estimated Level A take	Estimated Level B take	Estimated total take	Abundance	Percentage
Pacific harbor seal	168	330	498	11,036	4.51%
California sea lion	0	1245	1245	296,750	0.42
Steller sea lion	0	114	114	71,562	0.16
Killer whale, transient	0	7	7	243	3
Killer whale, Southern Resident	0	0	0	78	0
Gray whale	1	15	16	20,990	0.08
Humpback whale	1	2	3	1,918	0.15
Harbor porpoise	195	1657	1852	11,233	16.49
Dall's porpoise	16	137	153	25,750	0.59

Mitigation

Under section 101(a)(5)(D) of the MMPA, NMFS shall prescribe the ''permissible methods of taking by harassment 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 subsistence uses.''

To ensure that the ''least practicable adverse impact'' will be achieved, NMFS evaluates mitigation measures in 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(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, their habitat, and their availability for subsistence uses (latter where relevant); the proven or likely efficacy of the measures; and the practicability of the measures for applicant implementation.

For WSDOT's proposed Seattle Multimodal Project at Colman Dock, WSDOT worked with NMFS and proposed the following mitigation measures to minimize the potential impacts to marine mammals in the project vicinity. The primary purposes of these mitigation measures are to minimize sound levels from the activities, to monitor marine mammals within designated zones of influence (ZOI) and exclusion zones corresponding to NMFS' current Level B and Level A harassment thresholds and, to implement shut-down measures for certain marine mammal species when they are detected approaching the exclusion zones or actual take numbers are approaching the authorized take numbers (if the IHA is issued).

Time Restriction

Work would occur only during daylight hours, when visual monitoring of marine mammals can be conducted. In addition, all in-water construction will be limited to the period between August 1, 2017, and February 15, 2018.

Use of Noise Attenuation Devices

To reduce impact on marine mammals, WSDOT shall use a marine pile driving energy attenuator (*i.e.,* air bubble curtain system), or other equally effective sound attenuation method (*e.g.,* dewatered cofferdam) for all impact pile driving.

Establishing and Monitoring Level A, Level B Harassment Zones, and Exclusion Zones

Before the commencement of in-water construction activities, which include impact pile driving and vibratory pile driving and pile removal, WSDOT shall establish Level A harassment zones where received underwater SPLs or SEL_{cum} could cause PTS (see above).

WSDOT shall also establish Level B harassment zones where received underwater SPLs are higher than 160 dB_{rms} and 120 dB_{rms} re 1 µPa for impulse noise sources (impact pile driving) and non-impulses noise sources (vibratory pile driving and pile removal), respectively.

WSDOT shall establish a maximum 160-m Level A exclusion zone for all marine mammals. For Level A harassment zones that are smaller than 160 m from the source, WSDOT shall establish exclusion zones that correspond to the estimated Level A harassment distances, but shall not be less than 10 m.

A summary of exclusion zones is provided in Table 8.

TABLE 8—EXCLUSION ZONES FOR VARIOUS PILE DRIVING ACTIVITIES AND MARINE MAMMAL HEARING GROUPS

Pile type, size & pile driving method	Exclusion zone (m)				
	LF cetacean	MF cetacean	HF cetacean	Phocid	Otariid
14″ timber pile, vibratory	10	10	12	10	10
24″ steel pile, vibratory	255	65	160	115	10
30″ & 36″ steel pile, vibratory	285	65	160	125	10
30″ & 36″ steel pile, impact	500	75	160	160	35

NMFS-approved protected species observers (PSO) shall conduct an initial survey of the exclusion zones to ensure that no marine mammals are seen within the zones before impact pile driving of a pile segment begins. If marine mammals are found within the exclusion zone, pile driving of the segment would be delayed until they move out of the area. If a marine mammal is seen above water and then dives below, the contractor would wait 30 minutes. If no marine mammals are seen by the observer in that time it can be assumed that the animal has moved beyond the exclusion zone.

If pile driving of a segment ceases for 30 minutes or more and a marine mammal is sighted within the designated exclusion zone prior to commencement of pile driving, the observer(s) must notify the pile driving operator (or other authorized individual) immediately and continue to monitor the exclusion zone. Operations may not resume until the marine mammal has exited the exclusion zone or 30 minutes have elapsed since the last sighting.

Soft Start

A ''soft-start'' technique is intended to allow marine mammals to vacate the area before the impact pile driver reaches full power. Whenever there has been downtime of 30 minutes or more without impact pile driving, the contractor will initiate the driving with ramp-up procedures described below.

Soft start for impact hammers requires contractors to provide an initial set of three strikes from the impact hammer at 40 percent energy, followed by a 1-minute waiting period, then two subsequent three-strike sets. Each day, WSDOT will use the soft-start technique at the beginning of impact pile driving or removal, or if pile driving has ceased for more than 30 minutes.

Shutdown Measures

WSDOT shall implement shutdown measures if a marine mammal is detected within an exclusion zone or is about to enter an exclusion zone listed in Table 7.

WSDOT shall also implement shutdown measures if southern resident killer whales are sighted within the vicinity of the project area and are approaching the Level B harassment zone (ZOI) during in-water construction activities.

If a killer whale approaches the ZOI during pile driving or removal, and it is unknown whether it is a Southern Resident killer whale or a transient killer whale, it shall be assumed to be a Southern Resident killer whale and WSDOT shall implement the shutdown measure.

If a Southern Resident killer whale or an unidentified killer whale enters the ZOI undetected, in-water pile driving or pile removal shall be suspended until the whale exits the ZOI to avoid further level B harassment.

Further, WSDOT shall implement shutdown measures if the number of authorized takes for any particular species reaches the limit under the IHA (if issued) and if such marine mammals are sighted within the vicinity of the project area and are approaching the Level B harassment zone during in-water construction activities.

Coordination With Local Marine Mammal Research Network

Prior to the start of pile driving for the day, the Orca Network and/or Center for Whale Research will be contacted by WSDOT to find out the location of the nearest marine mammal sightings. The Orca Sightings Network consists of a list of over 600 (and growing) residents, scientists, and government agency personnel in the U.S. and Canada. Sightings are called or emailed into the Orca Network and immediately distributed to other sighting networks including: The NMFS Northwest Fisheries Science Center, the Center for Whale Research, Cascadia Research, the Whale Museum Hotline and the British Columbia Sightings Network.

Sightings information collected by the Orca Network includes detection by hydrophone. The SeaSound Remote Sensing Network is a system of interconnected hydrophones installed in the marine environment of Haro Strait (west side of San Juan Island) to study orca communication, in-water noise, bottom fish ecology and local climatic conditions. A hydrophone at the Port Townsend Marine Science Center measures average in-water sound levels and automatically detects unusual sounds. These passive acoustic devices allow researchers to hear when different marine mammals come into the region. This acoustic network, combined with the volunteer (incidental) visual sighting network allows researchers to document presence and location of various marine mammal species.

With this level of coordination in the region of activity, WSDOT will be able to get real-time information on the presence or absence of whales before starting any pile driving.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, all of which are described above, NMFS has preliminarily determined that the proposed mitigation measures provide the means effecting the least practicable adverse impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

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

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

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

Proposed Monitoring Measures

WSDOT shall employ NMFS-approved PSOs to conduct marine mammal monitoring for its Seattle Multimodal Project. The PSOs will observe and collect data on marine mammals in and around the project area for 30 minutes before, during, and for 30 minutes after all pile removal and pile installation work. NMFS-approved PSOs shall meet the following requirements:

1. Independent observers (*i.e.,* not construction personnel) are required;

2. At least one observer must have prior experience working as an observer;

3. Other observers may substitute education (undergraduate degree inbiological science or related field) or training for experience;

4. Where a team of three or more observers are required, one observer should be designated as lead observer or monitoring coordinator. The lead observer must have prior experience working as an observer; and

5. NMFS will require submission and approval of observer CVs.;

Monitoring of marine mammals around the construction site shall be conducted using high-quality binoculars (*e.g.,* Zeiss, 10 × 42 power). Due to the different sizes of ZOIs from different pile sizes, several different ZOIs and different monitoring protocols corresponding to a specific pile size will be established.

- During 14 inch timber pile removal, two land-based PSOs will monitor the exclusion zones and Level B harassment zone.
- During vibratory pile driving of 24 inch, 30 inch, and 36 inch steel piles, 5 land-based PSOs and two vessel-based PSOs on ferries will monitor the Level A and Level B harassment zones.
- During impact pile driving of 30 inch and 36 inch steel piles, 4 land-based PSOs will monitor the Level A and Level B harassment zones.

Locations of the land-based PSOs and routes of monitoring vessels are shown in WSDOT's Marine Mammal Monitoring Plan, which is available online at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.*

To verify the required monitoring distance, the exclusion zones and ZOIs will be determined by using a range finder or hand-held global positioning system device.

Proposed Reporting Measures

WSDOT would be required to submit a draft monitoring report within 90 days after completion of the construction work or the expiration of the IHA (if issued), whichever comes earlier. This report would detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed. NMFS would have an opportunity to provide comments on the report, and if NMFS has comments, WSDOT would address the comments and submit a final report to NMFS within 30 days.

In addition, NMFS would require WSDOT to notify NMFS' Office of Protected Resources and NMFS' West Coast Stranding Coordinator within 48 hours of sighting an injured or dead marine mammal in the construction site. WSDOT shall provide NMFS and the Stranding Network with the species or description of the animal(s), the condition of the animal(s) (including carcass condition, if the animal is dead), location, time of first discovery, observed behaviors (if alive), and photo or video (if available).

In the event that WSDOT finds an injured or dead marine mammal that is not in the construction area, WSDOT would report the same information as listed above to NMFS as soon as operationally feasible.

Negligible Impact Analysis and Determination

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

To avoid repetition, this introductory discussion of our analyses applies to all the species listed in Table 7, given that the anticipated effects of WSDOT's Seattle Multimodal Project at Colman Dock activities involving pile driving and pile removal on marine mammals 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 by species for this activity, or else species-specific factors would be identified and analyzed.

Although a few marine mammal species (168 harbor seals, 1 gray whale, 1 humpback whale, 195 harbor porpoises, and 16 Dall's porpoise) are estimated to experience Level A harassment in the form of PTS if they stay within the Level A harassment zone during the entire pile driving for the day, the degree of injury is expected to be mild and is not likely to affect the reproduction or survival of the individual animals. It is expected that, if hearing impairments occurs, most

likely the affected animal would lose a few dB in its hearing sensitivity, which in most cases is not likely to affect its survival and recruitment. Hearing impairment that occur for these individual animals would be limited to the dominant frequency of the noise sources, *i.e.,* in the low-frequency region below 2 kHz. Therefore, the degree of PTS is not likely to affect the echolocation performance of the two porpoise species, which use frequencies mostly above 100 kHz. Nevertheless, for all marine mammal species, it is known that in general animals avoid areas where sound levels could cause hearing impairment. Therefore it is not likely that an animal would stay in an area with intense noise that could cause severe levels of hearing damage. In addition, even if an animal receives a TTS, the TTS would be a one-time event from the exposure, making it unlikely that the TTS would involve into PTS. Furthermore, Level A take estimates were based on the assumption that the animals are randomly distributed in the project area and would not avoid intense noise levels that could cause TTS or PTS. In reality, animals tend to avoid areas where noise levels are high (Richardson *et al.* 1995).

For the rest of the three marine mammal species, takes that are anticipated and proposed to be authorized are expected to be limited to short-term Level B harassment (behavioral and TTS). Marine mammals present in the vicinity of the action area and taken by Level B harassment would most likely show overt brief disturbance (startle reaction) and avoidance of the area from elevated noise levels during pile driving and pile removal and the implosion noise. A few marine mammals could experience TTS if they occur within the Level B TTS ZOI. However, as discussed earlier in this document, TTS is a temporary loss of hearing sensitivity when exposed to loud sound, and the hearing threshold is expected to recover completely within minutes to hours. Therefore, it is not considered an injury. In addition, take calculation of harbor porpoise is based on density provided U.S. Navy Marine Species Density Database (Navy 2015), which is more relevant to open water area of the Puget Sound. Finally, harbor porpoise abundance in the Seattle area based on aerial survey showed that their abundance is lower (Jefferson *et al.,* 2016).

There is no ESA designated critical habitat in the vicinity of WSDOT's proposed Seattle Multimodal Project at Colman Dock area.

The project also 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. There is no ESA designated critical area in the vicinity of the Seattle Multimodal Project at Colman Dock area. The project activities would not permanently modify existing marine mammal habitat. The activities may kill some fish and cause other fish to leave the area temporarily, thus 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. Therefore, given the consideration of potential impacts to marine mammal prey species and their physical environment, WSDOT's proposed construction activity at Colman Dock would not adversely affect marine mammal habitat.

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

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, NMFS compares the number of individuals anticipated to be taken to the most appropriate estimation of the relevant species or stock size in our determination of whether an authorization would be limited to small numbers of marine mammals.

The takes represent less than 17 percent of all populations or stocks with known abundance potentially impacted (see Table 6 in this document). These take estimates represent the percentage of each species or stock that could be taken by both Level A and Level B harassments. In general, the numbers of marine mammals estimated to be taken are small proportions of the total populations of the affected species or stocks.

The most recent abundance estimate of Washington northern inland water stock of harbor seal was assessed at 11,036 (Carretta *et al.,* 2015). The actual number of harbor seal is expected to be much higher since animals could be under the water or in areas not covered by the survey (Carretta *et al.,* 2015). Nevertheless, consider that the take calculation is based on daily cumulative counts of animals that are exposed multiplied by the activity days, a single animal could be exposed in different days and thus be considered as multiple takes. Therefore, we believe that the numbers of harbor seals being potentially taken are low in terms of their stock sizes.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of each species or stock will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Subsistence Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

Issuance of an MMPA authorization requires compliance with the ESA for any species that are listed or proposed as threatened or endangered.

The California-Oregon-Washington stock of humpback whale and the Southern Resident stock of killer whale are the only marine mammal species listed under the ESA that could occur in the vicinity of WSDOT's proposed construction projects. Two DPSs of the humpback whale stock, the Mexico DPS and the Central America DPS, are listed as threatened and endangered under the ESA, respectively. NMFS' Permits and Conservation Division has initiated consultation with NMFS' Protected Resources Division under section 7 of the ESA on the issuance of an IHA to WSDOT under section 101(a)(5)(D) of the MMPA for this activity.

NMFS will conclude the ESA consultation prior to reaching a determination regarding the proposed issuance of the authorization.

National Environmental Policy Act (NEPA)

Issuance of an MMPA 101(a)(5)(D) authorization requires compliance with the National Environmental Policy Act.

NMFS preliminary determined the issuance of the proposed IHA is consistent with categories of activities identified in CE B4 (issuance of incidental harassment authorizations under section 101(a)(5)(A) and (D) of the MMPA for which no serious injury or mortality is anticipated) of the Companion Manual for NAO 216–6A and we have not identified any extraordinary circumstances listed in Chapter 4 of the Companion Manual for NAO 216–6A that would preclude this categorical exclusion.

We will review all comments submitted in response to this notice prior to making a final decision on the IHA request.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to the Washington State Department of Transportation for conducting ferry terminal construction at Colman Dock in Seattle Washington, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued).

The proposed IHA language is provided next.

1. This Authorization is valid from August 1, 2017, through July 31, 2018.

2. This Authorization is valid only for activities associated with in-water construction work at the Seattle Multimodal Project at Colman Dock in the State of Washington.

3. (a) The species authorized taking by, Level A and Level B harassment and in the numbers shown in Table 7 are: Pacific harbor seal (*Phoca vitulina*), California sea lion (*Zalophus californianus*), Steller sea lion (*Eumetopias jubatus*), killer whale (*Orcinus orca*), gray whale (*Eschrichtius robustus*), humpback whale (*Megaptera novaeangliae*), harbor porpoise (*Phocoena phocoena*), and Dall's porpoise (*P. dalli*).

(b) The authorization for taking by harassment is limited to the following acoustic sources and from the following activities:

- Impact pile driving;
- Vibratory pile driving; and
- Vibratory pile removal.

4. Prohibitions.

(a) The taking, by incidental harassment only, is limited to the species listed under condition 3(a) above and by the numbers listed in Table 6 of this notice. The taking by death of these species or the taking by harassment, injury or death of any other species of marine mammal is prohibited unless separately authorized or exempted under the MMPA and may result in the modification, suspension, or revocation of this Authorization.

(b) The taking of any marine mammal is prohibited whenever the required protected species observers (PSOs), required by condition 7(a), are not present in conformance with condition 7(a) of this Authorization.

5. Mitigation.

(a) Time Restriction.

In-water construction work shall occur only during daylight hours.

(b) Establishment of Level A and Level B Harassment Zones.

(A) Before the commencement of in-water pile driving/removal activities, WSDOT shall establish Level A harassment zones. The modeled Level A zones are summarized in Table 5.

(B) Before the commencement of in-water pile driving/removal activities, WSDOT shall establish Level B harassment zones. The modeled Level B zones are summarized in Table 5.

(C) Before the commencement of in-water pile driving/removal activities, WSDOT shall establish exclusion zones. The proposed exclusion zones are summarized in Table 8.

(c) Monitoring of marine mammals shall take place starting 30 minutes before pile driving begins until 30 minutes after pile driving ends.

(d) Soft Start.

(i) When there has been downtime of 30 minutes or more without pile driving, the contractor will initiate the driving with ramp-up procedures described below.

(ii) Soft start for impact hammers requires contractors to provide an initial set of three strikes from the impact hammer at 40 percent energy, followed by a 1-minute waiting period, then two subsequent three-strike sets. Each day, WSDOT will use the soft-start technique at the beginning of impact pile driving or removal, or if pile driving has ceased for more than 30 minutes.

(e) Shutdown Measures.

(i) WSDOT shall implement shutdown measures if a marine mammal is detected within or to be approaching the exclusion zones provided in Table 7 of this notice.

(ii) WSDOT shall implement shutdown measures if southern resident killer whales (SRKWs) are sighted within the vicinity of the project area and are approaching the Level B harassment zone (zone of influence, or ZOI) during in-water construction activities.

(iii) If a killer whale approaches the ZOI during pile driving or removal, and it is unknown whether it is a SRKW or a transient killer whale, it shall be assumed to be a SRKW and WSDOT shall implement the shutdown measure identified in 6(e)(ii).

(iv) If a SRKW enters the ZOI undetected, in-water pile driving or pile removal shall be suspended until the SRKW exits the ZOI to avoid further level B harassment.

(v) WSDOT shall implement shutdown measures if the number of any allotted marine mammal takes reaches the limit under the IHA, if such marine mammals are sighted within the vicinity of the project area and are approaching the Level B harassment zone during pile removal activities.

(f) Coordination with Local Marine Mammal Research Network.

Prior to the start of pile driving, WSDOT will contact the Orca Network and/or Center for Whale Research to get real-time information on the presence or absence of whales before starting any pile driving.

6. Monitoring.

(a) Protected Species Observers.

WSDOT shall employ NMFS-approved PSOs to conduct marine mammal monitoring for its construction project. NMFS-approved PSOs will meet the following qualifications.

(i) Independent observers (*i.e.,* not construction personnel) are required.

(ii) At least one observer must have prior experience working as an observer.

(iii) Other observers may substitute education (undergraduate degree in biological science or related field) or training for experience.

(iv) Where a team of three or more observers are required, one observer should be designated as lead observer or monitoring coordinator. The lead observer must have prior experience working as an observer.

(v) NMFS will require submission and approval of observer CVs.

(b) Monitoring Protocols: PSOs shall be present on site at all times during pile removal and driving.

(i) A 30-minute pre-construction marine mammal monitoring will be required before the first pile driving or pile removal of the day. A 30-minute post-construction marine mammal monitoring will be required after the last pile driving or pile removal of the day. If the constructors take a break between subsequent pile driving or pile removal for more than 30 minutes, then additional 30-minute pre-construction marine mammal monitoring will be required before the next start-up of pile driving or pile removal.

(iii) Marine mammal visual monitoring will be conducted for different ZOIs based on different sizes of piles being driven or removed, as shown

in maps in WSDOT's Marine Mammal Monitoring Plan.

(A) During 14 inch timber pile removal, two land-based PSO will monitor the exclusion zones and Level B harassment zone.

(B) During vibratory pile driving of 24 inch, 30 inch, and 36 inch steel piles, 5 land-based PSOs and two vessel-based PSOs on ferries will monitor the Level A and Level B harassment zones.

(C) During impact pile driving of 30 inch and 36 inch steel piles, 5 land-based PSOs and one vessel-based PSO on a ferry will monitor the Level A and Level B harassment zones.

(iv) If marine mammals are observed, the following information will be documented:

(A) Species of observed marine mammals;

(B) Number of observed marine mammal individuals;

(C) Behavior of observed marine mammals;

(D) Location within the ZOI; and

7. Reporting:

(a) WSDOT shall provide NMFS with a draft monitoring report within 90 days of the conclusion of the construction work or within 90 days of the expiration of the IHA, whichever comes first. This report shall detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed.

(b) If comments are received from NMFS Office of Protected Resources on the draft report, a final report shall be submitted to NMFS within 30 days thereafter. If no comments are received from NMFS, the draft report will be considered to be the final report.

(c) In the unanticipated event that the construction activities clearly cause the take of a marine mammal in a manner prohibited by this Authorization (if issued), such as an injury, serious injury, or mortality, WSDOT shall immediately cease all operations and immediately report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinators. The report must include the following information:

(i) Time, date, and location (latitude/longitude) of the incident;

(ii) description of the incident;

(iii) status of all sound source use in the 24 hours preceding the incident;

(iv) environmental conditions (*e.g.,* wind speed and direction, sea state, cloud cover, visibility, and water depth);

(v) description of marine mammal observations in the 24 hours preceding the incident;

(vi) species identification or description of the animal(s) involved;

(vii) the fate of the animal(s); and

(viii) photographs or video footage of the animal (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with WSDOT to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. WSDOT may not resume their activities until notified by NMFS via letter, email, or telephone.

(E) In the event that WSDOT discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as described in the next paragraph), WSDOT will immediately report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinators. The report must include the same information identified above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with WSDOT to determine whether modifications in the activities are appropriate.

(F) In the event that WSDOT discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), WSDOT shall report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinators, within 24 hours of the discovery. WSDOT shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. WSDOT can continue its operations under such a case.

8. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein or if NMFS determines the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.

9. A copy of this Authorization must be in the possession of each contractor who performs the construction work at the Seattle Colman Dock.

Request for Public Comments

We request comment on our analyses, the draft authorization, and any other aspect of this Notice of Proposed IHA for the WSDOT's Seattle Multimodal project at Colman Dock. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

Dated: March 23, 2017.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–06096 Filed 3–28–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF269

Meeting of the Columbia Basin Partnership Task Force of the Marine Fisheries Advisory Committee

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

ACTION: Notice of open public meeting.

SUMMARY: This notice sets forth the proposed schedule and agenda of a forthcoming meeting of the Marine Fisheries Advisory Committee's (MAFAC's) Columbia Basin Partnership Task Force (CBP Task Force). The CBP Task Force will discuss the issues outlined in the **SUPPLEMENTARY INFORMATION** below.

DATES: The meeting will be held April 18, 2017, from 8:00 a.m. to 5:00 p.m. and on April 19, 2017, from 8:00 a.m. to 12:30 p.m.

ADDRESSES: The meeting will be held at the Hotel Monaco, 506 SW Washington Street, Portland, OR 97204.

FOR FURTHER INFORMATION CONTACT: Katherine Cheney; NFMS West Coast Region (503) 231–6730; email: *Katherine.Cheney@noaa.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given of a meeting of MAFAC's CBP Task Force. The MAFAC was established by the Secretary of Commerce (Secretary) and since 1971, advises the Secretary on all living marine resource matters that are the responsibility of the Department of Commerce. The complete MAFAC charter and summaries of prior MAFAC meetings are located online at *http://www.nmfs.noaa.gov/ocs/mafac/.* The CBP Task Force reports to MAFAC and is being convened to discuss and develop recommendations for long-term goals to meet Columbia Basin salmon recovery, conservation needs, and harvest opportunities. These goals will be developed in the context of habitat capacity and other factors that affect

salmon mortality. More information is available at the CBP Task Force Web page: *http://www.westcoast.fisheries.noaa.gov/columbia_river/index.html*

Matters To Be Considered

This meeting time and agenda are subject to change. Updated information will be available on the CBP Task Force Web page above.

The meeting is convened to conduct the work of the CBP Task Force. Meeting topics include a discussion of the final Operating Principles, discussion of a shared vision, and work plan for goal setting, including a proposed analytical framework. The meeting is open to the public as observers, and a public comment period will be provided on April 19, 2017, from 11:30–12:00 p.m. to accept public input, limited to the time available.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Katherine Cheney; 503–231–6730 by April 4, 2017.

Dated: March 23, 2017.

Jennifer Lukens,

Director for the Office of Policy, National Marine Fisheries Service.

[FR Doc. 2017–06132 Filed 3–28–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF271–X

Endangered Species; File No. 21043

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the Florida Fish and Wildlife Conservation Commission, Fish and Wildlife Research Institute, 585 Prineville Street, Port Charlotte, FL 33954 [Responsible Party, Gregg Poulakis, Ph.D.], has applied in due form for a permit to take *Pristis pectinata* for purposes of scientific research.

DATES: Written, telefaxed, or email comments must be received on or before April 28, 2017.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 21043 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Malcolm Mohead or Erin Markin, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The objective of the permitted activity is to conduct research and monitoring of endangered smalltooth sawfish to develop conservation and protective measures ensuring the species' recovery. Other listed species potentially encountered and incidentally collected include green (*Chelonia mydas*), hawksbill (*Eretmochelys imbricata*), Kemp's ridley (*Lepidocheyls kempii*), leatherback (*Dermochelys coriacea*), and loggerhead (*Caretta caretta*) sea turtles. Researchers are requesting to capture smalltooth sawfish in Florida waters, and then measure, weigh, tag, genetic tissue sample, draw blood, and photograph animals prior to release. The applicant also requests to have access to salvaged animals and parts taken at other parts within the species range.

Dated: March 23, 2017.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–06139 Filed 3–28–17; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Extend Collection 3038–0049: Procedural Requirements for Requests for Interpretative, No-Action, and Exemptive Letters

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC) is announcing an opportunity for public comment on the proposed extension of a collection of certain information by the agency. Under the Paperwork Reduction Act (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on requirements related to requests for, and the issuance of, exemptive, no-action, and interpretative letters.

DATES: Comments must be submitted on or before May 30, 2017.

ADDRESSES: You may submit comments, identified by ''OMB Control Number 3038–0049,'' by any of the following methods:

- The Agency's Web site, at *http://comments.cftc.gov/.* Follow the instructions for submitting comments through the Web site.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.
- *Federal eRulemaking Portal: http://www.regulations.gov/.* Follow the instructions for submitting comments through the Portal.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.*

FOR FURTHER INFORMATION CONTACT: Jocelyn Partridge, Special Counsel, Division of Clearing and Risk, (202) 418–5926, email: *jpartridge@cftc.gov;* Meghan Tente, Special Counsel, Division of Clearing and Risk, (202) 418–5785, email: *mtente@cftc.gov;* Jacob Chachkin, Special Counsel, Division of Swaps and Intermediary Oversight, (202) 418–5496, email:

jchachkin@cftc.gov; or Dana Brown, Paralegal Specialist, Division of Market Oversight, (202) 418–5093, email: *dbrown@cftc.gov;* or (202) 418–5093.

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires a Federal agency to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information before submitting the collection to OMB for approval. To comply with these requirements, the CFTC is publishing notice of the proposed collection of information listed below.

Title: Procedural Requirements for Requests for Interpretative, No-Action and Exemptive Letters (OMB Control No. 3038–0049). This is a request for an extension of a currently approved information collection.

Abstract: This collection covers the information requirements for voluntary requests for, and the issuance of, interpretative, no-action, and exemptive letters submitted to Commission staff pursuant to the provisions of section 140.99 of the Commission's regulations,[1] and related requests for confidential treatment pursuant to section 140.98(b) [2] of the Commission's regulations. It includes reporting and recordkeeping requirements.

The collection requirements described herein are voluntary. They apply to parties that choose to request a benefit from Commission staff in the form of the regulatory action described in section 140.99. Such benefits may include, for example, relief from some or all of the burdens associated with other collections of information, relief from regulatory obligations that do not constitute collections of information collections, interpretations, or extensions of time for compliance with certain Commission regulations. It is likely that persons who would opt to request action under section 140.99 will have determined that the information collection burdens that they would assume by doing so will be outweighed substantially by the relief that they seek to receive.

The information collection associated with section 140.99 of the Commission's regulations is necessary, and would be used, to assist Commission staff in understanding the type of relief that is being requested and the basis for the request. It is also necessary, and would be used, to provide staff with a sufficient basis for determining whether: (1) Granting the relief would be necessary or appropriate under the facts and circumstances presented by the requestor; (2) the relief provided should be conditional and/or time-limited; and (3) granting the relief would be consistent with staff responses to requests that have been presented under similar facts and circumstances. In some cases, the requested relief might be granted upon the condition that those who seek the benefits of that relief fulfill certain notice and other reporting obligations that serve as substituted compliance for regulatory requirements that would otherwise be imposed. In other cases, the conditions might include reporting or recordkeeping requirements that are necessary to ensure that the relief granted by Commission staff is appropriate. Once again, it is likely that those who would comply with these conditions will have determined that the burden of complying with the conditions is outweighed by the relief that they seek to receive. The information collection associated with section 140.98(b) of the Commission's regulations is necessary to provide a mechanism whereby persons requesting no-action, interpretative and exemption letters may seek temporary confidential treatment of their request and the Commission staff response thereto and the grounds upon which such confidential treatment is sought.

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; and
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical or other technological collection techniques or other forms of information technology; *e.g.,* permitting electronic submission of responses.

You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in section 145.9 of the Commission's regulations.[3] The Commission reserves the right, but shall have no obligation to, review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the Information Collection Requirement will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: In order to establish estimates of the annual information collection burdens associated with the exemptive, no-action and interpretative letters that may be issued by Commission staff during the three year renewal period, Commission staff reviewed the letters of this type that were issued by Commission staff during 2016. This timeframe was chosen because it is believed that such recent experience is indicative of both the quantity of requests that Commission staff expects to receive and the quantity of letters that Commission staff expects to issue on an annual basis during the renewal period and the information collection burdens that may be associated with them. In some cases, the relief granted in 2016 is unlikely to be requested again as it has been superseded by a Commission rulemaking. The projected burden estimates for the renewal period were not reduced accordingly in order to account for the possibility that new issues may arise. It is also possible that certain relief granted in 2016 may be superseded by a future Commission rulemaking. As future rulemakings and their effective dates are speculative, the estimates for the renewal period have

[1] 17 CFR. 140.99. An archive containing CFTC staff letters may be found at *http://www.cftc.gov/LawRegulation/CFTCStaffLetters/index.htm.*

[2] 17 CFR 140.98(b).

[3] 17 CFR 145.9.

not been reduced to account for potential rulemakings.

The annual respondent burden for this collection during the renewal period is estimated to be as follows:

Estimated Number of Respondents: 284.

Estimated Average Annual Burden Hours per Respondent: 9.5.

Estimated Total Annual Burden Hours: 2,704.

Frequency of Collection: Occasional.

Type of Respondents: Respondents include persons registered with the Commission (such as commodity pool operators, commodity trading advisors, derivatives clearing organizations, designated contract markets, futures commission merchants, introducing brokers, swap dealers, and swap execution facilities), persons seeking an exemption from registration, persons whose registration with the Commission is pending, trade associations and their members, eligible contract participants, and other persons seeking relief from discrete regulatory requirements.

There are no capital costs or operating and maintenance costs associated with this collection.

These estimates, as set forth in greater detail below, include the burden hours for complying with the information requirements for exemptive, no-action and interpretative letters contained in section 140.99(c) of the Commission's regulations; effecting the filing of such letters pursuant to section 140.99(d); providing notice to Commission staff of materially changed facts and circumstances pursuant to section 140.99(c)(3)(ii); complying with any conditions that may be contained in a grant of no-action or exemptive relief; complying with requirements to make disclosures to third parties; and preparing and submitting withdrawals of requests for exemptive, no-action and interpretative letters, as provided in section 140.99(f). The estimates also include burden hours related to a request for confidential treatment made pursuant to section 140.98(b) of the Commission's regulations.[4]

The burden hours associated with requests for exemptive, no-action and interpretative letters include both the drafting and filing of the request itself as well as performing the underlying factual or legal analysis generally to comply with the information collection. The burden hours associated with individual requests will vary widely, depending upon the type and complexity of relief requested, whether the request presents novel or complex issues, the relevant facts and circumstances, and the number of requestors or other affected entities. The Commission provides estimates of the amount of time that any requestor spends on any particular request as each request is unique, based upon the preceding factors.

	Estimated annual respondents	Estimated annual reports or records per respondent	Total annual responses	Estimated average number of hours per response	Estimated annual burden hours
Reporting					
§ 140.99 (c)—information requirements for letters	78	1	78	24.7	1,930
§ 140.99(d)—filing requirements	78	1	78	1	78
§ 140.99 (c)(3)(ii)—materially changed facts and circumstances	5	1	5	3	15
§ 140.99(e)—staff response (conditions imposed)	16	1	16	5	80
§ 140.99(f)—withdrawal of requests	5	1	5	1	5
§ 140.98(b)—requests for confidential treatment	42	1	42	1	42
Total Reporting	224	1	224	9.6	2,150
Recordkeeping					
§ 140.99(e)—staff response (conditions imposed)	54	4	216	1	216
Disclosures to Third Parties	6	56.4	338	1	338
Total	284	2.7	778	3.5	2,704

(Authority 44 U.S.C. 3501 *et seq.*)

Dated: March 24, 2017.

Robert N. Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2017–06182 Filed 3–28–17; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Board of Visitors of the U.S. Air Force Academy Notice of Meeting

AGENCY: U.S. Air Force Academy Board of Visitors, Department of Defense.

ACTION: Meeting withdrawal notice.

SUMMARY: The Board of Visitors of the U.S. Air Force Academy Notice of Meeting is withdrawing the notice, this meeting published on 23 March 2017 [FR 2017–05625].

DATES: This withdrawal is effective March 23, 2017.

SUPPLEMENTARY INFORMATION: The Department of the Air Force is withdrawing the meeting notice of the Board of Visitors that published on the 23rd since this meeting has been amended.

Henry Williams,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2017–06173 Filed 3–28–17; 8:45 am]

BILLING CODE 5001–10–P

[4] The Commission now includes the collection of information related to Commission regulation 41.3(b), which involves exemption requests from certain intermediaries, under OMB number 3038–0059 and, as such, is no longer including it in this OMB number.

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Prepare a Supplemental Environmental Impact Statement for United States Air Force F–35a Operational Beddown—Pacific

AGENCY: United States Air Force, DOD.

ACTION: Notice of intent.

SUMMARY: The U.S. Air Force (USAF) is issuing this notice of intent (NOI) to prepare a Supplemental Environmental Impact Statement (SEIS) to address changes made since the February 2016 completion of the *F–35A Operational Beddown—Pacific EIS* (referred herein as the original EIS) and signature of the *Record of Decision* (ROD) in April 2016, announcing the Air Force decision to beddown two squadrons of F–35A aircraft at Eielson AFB, Alaska. The original EIS evaluated infrastructure construction, demolition, renovations, additional personnel, and increases in aircraft operations at the airfield and in the Joint Pacific Alaska Range Complex (JPARC) airspace. However, the Air Force is supplementing the original EIS due to projects being identified after the ROD was signed that are required to support the F–35 beddown at Eielson AFB. These projects are relevant to environmental concerns and provide new circumstances and information relevant to Air Force decision-making and mitigation activities.

*Scoping and Agency Coordination:*To effectively define the full range of issues to be evaluated in the SEIS, the USAF will determine the scope of the analysis by soliciting comments from interested local, state and federal elected officials and agencies, as well as interested members of the public and others. This is being done by providing a Web site where the public and lodge their comments and/or by mailing comments to the base Civil Engineering Squadron.

ADDRESSES: The project Web site (*https://www.pacaf-f35aeis.com*) provides more information on the SEIS and can be used to submit scoping comments. Scoping comments may also be submitted to Attn: F–35 Beddown SEIS, 354 CES/CEI, P.O. Box 4743, Eielson AFB, AK 99702.

Comments will be accepted at any time during the environmental impact analysis process. However, to ensure the USAF has sufficient time to consider public input in the preparation of the Draft SEIS, scoping comments should be submitted to the Web site or the address listed above by May 15, 2017.

SUPPLEMENTARY INFORMATION: The Air Force proposes to implement three actions at Eielson AFB. They are independent of each other and have standalone value for improving facility and infrastructure development in support of the F–35A beddown at Eielson AFB. The three are to provide additional stormwater runoff control; develop equipment and material laydown areas; and provide additional heat, water, and power to the South Loop. While full implementation of all of the proposed actions is desired, and results in the greatest benefit for the beddown, each of the proposals if implemented alone would have a positive effect on facility and infrastructure development on the base. The no-action alternatives will be addressed in the SEIS as well.

The additional stormwater runoff control measures would include up to 20 acres to accommodate additional conveyance and infiltration areas. The Air Force identified several areas, adjacent to F–35A facilities, to allow flexibility in conveyance and infiltration system designs. Stormwater control measures can include, but are not limited to, sloping paved areas so that water flows to adjacent vegetated areas and using rocks to fill in low areas so that ponds would not be created. Wildlife in an active airfield poses a real bird/wildlife aircraft strike hazard; therefore, minimizing standing water is a primary consideration when designing stormwater runoff control systems.

The equipment and material laydown areas would entail up to 60 acres, adjacent to F–35A facilities already identified in the original EIS. Because of the remote location, material would need to be stockpiled and stored for use when they are needed. Additionally, the areas would accommodate the construction contractors' equipment and construction worker vehicles involved in this large infrastructure development.

Because of the severe arctic environment and extreme temperature differences (exceeding 150 degrees Fahrenheit), Eielson AFB maintains an underground utility distribution system. Under this proposed action, a utility corridor, both underground for steam, water, and condensate, and above ground for power, would be established to connect from the existing Central Heat and Power Plant and to the South Loop where F–35A facilities identified in the original EIS are being constructed. Depending on the route, the utiliduct could extend up to 2 miles.

The proposed actions at Eielson AFB have the potential to be located in a floodplain and/or wetland. Consistent with the requirements and objectives of Executive Order (EO) 11990, ''Protection of Wetlands,'' and EO 1988, ''Floodplain Management,'' as amended by EO 13690, ''Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input,'' state and federal regulatory agencies with special expertise in wetlands and floodplains will be contacted to request comment. Consistent with EO 11988, EO 13690, and EO 11990, this Notice of Intent initiates early public review of the proposed actions and alternatives, which have the potential to be located in a floodplain and/or wetland.

Henry Williams,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2017–06175 Filed 3–28–17; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2016–0024; OMB Control Number 0704–0332]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB, for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 28, 2017.

SUPPLEMENTARY INFORMATION: *Title, Associated Form, and OMB Number:* Defense Federal Acquisition Regulation Supplement (DFARS) Appendix I, DoD Pilot Mentor-Protege Program; OMB Control Number 0704–0332.

Type of Request: Reinstatement with change.

Number of Respondents: 112.

Responses Per Respondent: Approximately 2.

Annual Responses: 240.

Average Burden per Response: 1 hour.

Annual Response Burden Hours: 240.

Reporting Frequency: Two times per year for mentor firms; one time per year for protege firms.

Needs and Uses: DoD needs this information to ensure that participants in the Mentor-Protege Program (''the Program'') are fulfilling their obligations under the mentor-protege agreements and that the Government is receiving value for the benefits it provides through the Program. DoD uses the information as source data for reports to Congress required by section 811(d) of the National Defense Authorization Act

for Fiscal Year 2000 (Pub. L. 106–65). Participation in the Program is voluntary.

Affected Public: Businesses and other for-profit entities and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503. You may also submit comments, identified by docket number and title, by the following method:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number, and title for the **Federal Register** document. The general policy for comments and other public 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 provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

DoD Clearance Officer: Mr. Frederick C. Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at: Information Collections Program, WHS/ESD Office of Information Management, 4800 Mark Center Drive, 3rd Floor, East Tower, Suite 03F09, Alexandria, VA 22350–3100.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2017–06223 Filed 3–28–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2013–OS–0071]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 28, 2017.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Physician Certificate for Child Annuitant; DD Form 2828; OMB Control Number 0730–0011.

Type of Request: Reinstatement.

Number of Respondents: 240.

Responses per Respondent: 1.

Annual Responses: 240.

Average Burden per Response: 2 hours.

Annual Burden Hours: 480 hours.

Needs and Uses: The DD 2828 is required and must be on file to support an incapacitation occurring prior to age 18. The form provides the authority for the Directorate of Retired and Annuitant Pay, DFAS to establish and pay a Retired Service Member's Family Protection Plan (RSFPP) or Survivor Benefit Plan (SBP) annuity to the incapacitated individual. The form is completed by the child annuitant, and/or their guardian, custodian or legal representative and certified by the physician.

Affected Public: Individuals and households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID 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.

DOD Clearance Officer: Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 03F09, Alexandria, VA 22350–3100.

Dated: March 23, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–06145 Filed 3–28–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2017–OS–0014]

Proposed Collection; Comment Request

AGENCY: Washington Headquarters Services (WHS) Facilities Services Directorate (FSD) Integrated Services Division (ISD), DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Washington Headquarters Services (WHS) Facilities Services Directorate (FSD) Integrated Services Division (ISD) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 30, 2017.

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 for Oversight and Compliance, Regulatory and Advisory Committee Division, 4800 Mark Center

Drive, Mailbox #24, Suite 08D09B, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information. Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please contact Yolanda Creal, Transportation Program Manager, WHS/FSD/ISD at (703) 697–1850 and *yolanda.y.creal.civ@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Pentagon/Mark Center Transportation Commuter Survey; OMB Control Number 0704–0517.

Needs and Uses: Per requirements in the Administrative Instruction (AI) 109, and the National Capital Planning Commission (NCPC) approved Base Relocation and Closure (BRAC) #133 Transportation Management Plan (TMP), the WHS Transportation Management Program Office (TMPO) will conduct surveys of both Federal and non-Federal employees in order to monitor the effectiveness of the various Pentagon and Mark Center Transportation Programs and Strategies. The purpose of the surveys is to gather travel mode choice information from DoD employees and contractors located at the Pentagon and Mark Center. Information gathered from this effort will be used to refine the DoD shuttle service and travel demand management strategies currently being implemented at each facility to reduce traffic congestion. The results of the transportation/commuter surveys will be utilized to accomplish the aforementioned tasks and to support future transportation related improvement efforts to enhance transportation to and from the Pentagon, Mark Center, and DoD facilities in the National Capital Region.

Affected Public: Individuals and Households.

Annual Burden Hours: 4,001.

Number of Respondents: 16,005.

Responses per Respondent: 1.

Annual Responses: 16,005.

Average Burden per Response: 15 minutes.

Frequency: Annual.

The 2014 Pentagon/Mark Center Transportation/Commuter Surveys will be administered through the use of technological collection techniques, such as the proprietary DoD Interactive Customer Evaluation (ICE) Survey Application.

Dated: March 24, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–06186 Filed 3–28–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Hydrogen and Fuel Cell Technical Advisory Committee (HTAC)

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Hydrogen and Fuel Cell Technical Advisory Committee (HTAC). The Federal Advisory Committee Act requires notice of the meeting be announced in the **Federal Register**.

DATES: Thursday, May 4, 2017, 8:30 a.m.–5:45 p.m.

Friday, May 5, 2017, 9:00 a.m.–1:00 p.m.

ADDRESSES: National Renewable Energy Laboratory, 901 D Street SW., Suite 930, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Email: *HTAC@nrel.gov* or at the mailing address: Erika Gupta, Designated Federal Officer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, 15013 Denver West Parkway, Golden, CO 80401.

SUPPLEMENTARY INFORMATION: *Purpose of the Committee:* The Hydrogen and Fuel Cell Technical Advisory Committee (HTAC) was established under section 807 of the Energy Policy Act of 2005 (EPACT), Public Law 109–58; 119 Stat. 849, to provide advice and recommendations to the Secretary of Energy on the program authorized by Title VIII of EPACT.

Tentative Agenda: (updates will be posted on the web at): *http://hydrogen.energy.gov/advisory_htac.html*).

- HTAC Business (including public comment period)
- DOE Leadership Updates
- Program and Budget Updates
- Updates from Federal/State Governments and Industry
- HTAC Subcommittee Updates
- Open Discussion Period

Public Participation: The meeting is open to the public. Individuals who would like to attend and/or to make oral statements during the public comment period must register no later than 5:00 p.m. on Monday, April 24, 2017, by email at *HTAC@nrel.gov.* Entry to the meeting room will be restricted to those who have confirmed their attendance in advance. Please provide your name, organization, citizenship, and contact information. Anyone attending the meeting will be required to present government-issued identification. Those wishing to make a public comment are required to register. The public comment period will take place between 8:30 a.m. and 8:45 a.m. on May 4, 2017. Time allotted per speaker will depend on the number who wish to speak but will not exceed five minutes. Those not able to attend the meeting or have insufficient time to address the committee are invited to send a written statement to *HTAC@nrel.gov.*

Minutes: The minutes of the meeting will be available for public review at *http://hydrogen.energy.gov/advisory_htac.html.*

Issued in Washington, DC in March 23, 2017.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2017–06170 Filed 3–28–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CD17–9–000]

Ryan Yoder; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene

On March 10, 2017, Ryan Yoder filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act (FPA), as amended by section 4 of the Hydropower Regulatory Efficiency Act of 2013 (HREA). The proposed Yoder Farm Water Supply System Project would have an installed capacity of 1.6 kilowatts (kW), and would be located along an irrigation and domestic water supply pipeline the

applicant is replacing and upgrading. The project would be located in the town of Danby in Rutland County, Vermont.

Applicant Contact: Robert Yoder, 241 Killington Avenue, Rutland, VT 05701 Phone No. (720) 425–2818.

FERC Contact: Christopher Chaney, Phone No. (202) 502–6778, email: *Christopher.Chaney@ferc.gov*.

Qualifying Conduit Hydropower Facility Description: The proposed project would consist of: (1) An approximately 10-foot by 10-foot shed containing two 800-kW turbine/generating units with a total installed capacity of 1.6 kW; (2) a short penstock to the turbine that wyes off a 4-inch-diameter water supply pipeline; (3) a 20-foot-long, open channel tailrace discharging water to Mill Brook; and (4) appurtenant facilities. The proposed project would have an estimated annual generating capacity of 13,000 kilowatt-hours.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all of the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

Statutory provision	*Description*	*Satisfies (Y/N)*
FPA 30(a)(3)(A), as amended by HREA ...	The conduit the facility uses is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.	Y
FPA 30(a)(3)(C)(i), as amended by HREA	The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit.	Y
FPA 30(a)(3)(C)(ii), as amended by HREA	The facility has an installed capacity that does not exceed 5 megawatts	Y
FPA 30(a)(3)(C)(iii), as amended by HREA.	On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA.	Y

Preliminary Determination: The proposed addition of the hydroelectric project along the upgraded irrigation and domestic water supply pipeline will not alter its primary purpose. Yoder Farm has stated that the primary purpose of the pipeline upgrade is to improve the efficiency of the existing pipe, and that it will proceed with the pipeline upgrade regardless of the ability to generate electricity. Yoder Farm has also indicated that the generator is subordinate to the agricultural demands of the conduit, and will operate only in instances where excess water must be released. Therefore, based upon the above information and criteria, Commission staff preliminarily determines that the proposal satisfies the requirements for a qualifying conduit hydropower facility, which is not required to be licensed or exempted from licensing.

Comments and Motions To Intervene: Deadline for filing comments contesting whether the facility meets the qualifying criteria is 45 days from the issuance date of this notice.

Deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

Filing and Service of Responsive Documents: All filings must (1) bear in all capital letters the ''COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY'' or ''MOTION TO INTERVENE,'' as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission's regulations.[1] All comments contesting Commission staff's preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

[1] 18 CFR 385.2001–2005 (2016).

Locations of Notice of Intent: Copies of the notice of intent can be obtained directly from the applicant or such copies can be viewed and reproduced at the Commission in its Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the web at *http://www.ferc.gov/docs-filing/elibrary.asp* using the ''eLibrary'' link. Enter the docket number (*i.e.,* CD17–9) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659.

Dated: March 23, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–06157 Filed 3–28–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: CP17–78–000.

Applicants: B&W Pipeline, Inc.

Description: Application for Limited Jurisdiction Blanket Certificate and

Request for Expedited Action of B&W Pipeline, Inc.

Filed Date: 03/16/2017.

Accession Number: 20170317–5191.

Comment Date: 5:00 p.m. Eastern Time on Friday, April 07, 2017.

Docket Numbers: RP16–137–012.

Applicants: Tallgrass Interstate Gas Transmission, L.

Description: Tallgrass Interstate Gas Transmission, LLC submits tariff filing per 154.203: Cancellation of TIGT 5th Revised Volume No. 1 Tariff to be effective 4/1/2017.

Filed Date: 03/17/2017.

Accession Number: 20170317–5186.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, March 29, 2017.

Docket Numbers: RP17–541–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: Iroquois Gas Transmission System, L.P. submits tariff filing per 154.204: 03/17/17 Negotiated Rates—Consolidated Edison Energy Inc. (HUB) 2275–89 to be effective 3/16/2017.

Filed Date: 03/17/2017.

Accession Number: 20170317–5062.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, March 29, 2017.

Docket Numbers: RP17–542–000.

Applicants: ANR Pipeline Company.

Description: ANR Pipeline Company submits tariff filing per 154.601: Shell Energy FTS–1 NC Agreement to be effective 4/1/2017.

Filed Date: 03/17/2017.

Accession Number: 20170317–5107.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, March 29, 2017.

Docket Numbers: RP17–543–000.

Applicants: Ryckman Creek Resources, LLC.

Description: Ryckman Creek Resources, LLC submits tariff filing per 154.204: Non Conforming Service Agreements to be effective 4/1/2017.

Filed Date: 03/17/2017.

Accession Number: 20170317–5124.

Comment Date: 5:00 p.m. Eastern Time on Friday, March 24, 2017.

Docket Numbers: RP13–459–000.

Applicants: Trailblazer Pipeline Company LLC.

Description: Trailblazer Pipeline Company LLC submits tariff filing per 154.501: 2016 Penalty Revenue Credit Report.

Filed Date: 03/20/2017.

Accession Number: 20170320–5168.

Comment Date: 5:00 p.m. Eastern Time on Monday, April 03, 2017.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 21, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–06159 Filed 3–28–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–74–000]

National Fuel Gas Supply Corporation; Notice of Application

Take notice that on March 10, 2017, National Fuel Gas Supply Corporation (National Fuel), having its principal place of business at 6363 Main Street, Williamsville, New York 14221 filed in the above referenced docket an application pursuant to section 7(b) and 7(c) of the Natural Gas Act (NGA), and Part 157 of the Commission's regulations requesting authorization to construct, replace, idle, and abandon four separate pipeline sections and appurtenant facilities located in Cameron, Elk and McKean Counties, Pennsylvania, referred to as the Line YM28 and Line FM120 Modernization Project (Project), all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application may be directed to Randy C. Rucinski, Assistant General Counsel for National Fuel, 6363 Main Street, Williamsville, New York 14221, by phone at (716) 857–7237, by fax (716) 857–7206 or by emailing *rucinskir@natfuel.com*.

Specifically, the National Fuel proposes the following modifications: (i) Construct approximately 14.4 miles of new 12-inch diameter pipeline (new Line KL), (ii) replace via insertion approximately 5.8 miles of Line FM120, (iii) idle approximately 12.5 miles of Line FM120, and (iv) abandon in place approximately 7.7 miles of the existing Line YM28. The Project is designed to enhance service to National Fuel's existing customers and improve the reliability and flexibility of National Fuel's system for existing shippers. The total cost of the Project is approximately $39,500,000.

Pursuant to section 157.9 of the Commission's rules (18 CFR 157.9), within 90 days of this Notice, the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit seven copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and

to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on April 13, 2017.

Dated: March 23, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–06160 Filed 3–28–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC17–97–000.

Applicants: HA Wind V LLC, Morgan Stanley Wind LLC.

Description: Application for Approval Under Section 203 of the Federal Power Act of Morgan Stanley Wind LLC, et al.

Filed Date: 3/22/17.

Accession Number: 20170322–5029.

Comments Due: 5 p.m. ET 4/12/17.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG17–82–000.

Applicants: PPA Grand Johanna LLC.

Description: Self-Certification of Exempt Wholesale Generator Status of PPA Grand Johanna LLC.

Filed Date: 3/21/17.

Accession Number: 20170321–5213.

Comments Due: 5 p.m. ET 4/11/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER15–1456–003; ER11–4634–002; ER17–436–001; ER17–437–001; ER16–999–004; ER15–1457–003.

Applicants: Beaver Falls, L.L.C., Greenleaf Energy Unit 1 LLC, Hazleton Generation LLC, Marcus Hook Energy, L.P., Marcus Hook 50, L.P., Syracuse, L.L.C.

Description: Supplement to December 1, 2016 Notice of Change in Status of Beaver Falls, L.L.C., et. al.

Filed Date: 3/21/17.

Accession Number: 20170321–5230.

Comments Due: 5 p.m. ET 4/11/17.

Docket Numbers: ER17–862–001.

Applicants: Bethel Wind Farm LLC.

Description: Tariff Amendment: Additional Amendment of Bethel Wind Farm MBR Tariff to be effective 1/28/2017.

Filed Date: 3/21/17.

Accession Number: 20170321–5188.

Comments Due: 5 p.m. ET 4/11/17.

Docket Numbers: ER17–913–002.

Applicants: Consolidated Edison Company of New York, Inc.

Description: Tariff Amendment: Amendment #2 PASNY RY 1 filing to be effective 2/1/2017.

Filed Date: 3/22/17.

Accession Number: 20170322–5069.

Comments Due: 5 p.m. ET 4/12/17.

Docket Numbers: ER17–1285–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2017–03–22 Reorganization of Attachment X Generator Interconnection Procedures to be effective 3/23/2017.

Filed Date: 3/22/17.

Accession Number: 20170322–5141.

Comments Due: 5 p.m. ET 4/12/17.

Docket Numbers: ER17–1286–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Queue Position AB2–109, Original Service Agreement No. 4654 to be effective 12/31/9998.

Filed Date: 3/22/17.

Accession Number: 20170322–5144.

Comments Due: 5 p.m. ET 4/12/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 22, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–06158 Filed 3–28–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2017–0127; FRL–9960–30]

Mercury; Initial Inventory Report of Supply, Use, and Trade

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA was directed by Congress in the Frank R. Lautenberg Chemical Safety for the 21st Century Act (Lautenberg Act), which amended the Toxic Substances Control Act (TSCA), to carry out and publish in the **Federal Register** not later than April 1, 2017, an inventory of mercury supply, use, and trade in the United States. The

Lautenberg Act defines ''mercury'' as ''elemental mercury'' or ''a mercury compound.'' Consistent with this mandate, EPA is announcing the availability of this initial inventory report, which is a compilation of publicly available data on the supply, use, and trade of elemental mercury and mercury compounds.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Sue Slotnick, National Program Chemicals Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 566–1973; email address: *slotnick.sue@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action applies to the public in general, and may be of particular interest to a wide range of stakeholders including members of the public interested in elemental mercury or mercury compounds generally or specifically in the supply, use, or trade of elemental mercury or mercury compounds, including mercury-added products and manufacturing processes, and interested in the assessment of chemical risks. As such, the Agency has not attempted to describe all the specific entities that may be interested in this action.

II. What action is the Agency taking?

As directed in TSCA section 8(b)(10)(B), EPA is publishing an inventory of mercury supply, use, and trade in the United States (15 U.S.C. 2507(b)(10)(B)). The Lautenberg Act defines ''mercury'' as ''elemental mercury'' or ''a mercury compound'' (15 U.S.C. 2507(b)(10)(A)). The purpose of the mercury inventory is to ''identify any manufacturing processes or products that intentionally add mercury'' (15 U.S.C. 2607(b)(10)(C)). This initial inventory report (Ref. 1) is a compilation of readily available, previously published data on the supply, use, and trade of elemental mercury and mercury compounds. Current, complete information is not available for some topics. EPA is not soliciting comments on this initial inventory report.

The Agency also is directed to carry out and publish such an inventory every three years after April 1, 2017, as supported by a rule authorized in the Lautenberg Act (15 U.S.C. 2507(b)(10)(B)). That rule must be promulgated by June 22, 2018. (15 U.S.C. 2507(b)(10)(B)). For inventories subsequent to the initial inventory report, EPA is authorized to promulgate a rule to ''assist in the preparation of the inventory'' so that ''any person who manufactures mercury or mercury-added products or otherwise intentionally uses mercury in a manufacturing process shall make periodic reports to the Administrator, at such time and including such information as the Administrator shall determine'' (15 U.S.C. 2607(b)(10)(D)). Future triennial inventories of mercury supply, use, and trade are expected to include data collected directly from persons who manufacture (including import) mercury or mercury-added products or otherwise intentionally use mercury in a manufacturing process.

III. References

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

• EPA. Mercury—U.S. Inventory Report: Supply, Use, and Trade. 2017.

Authority: 15 U.S.C. 2607(b)(10)(B).

Dated: March 23, 2017.

Wendy Cleland-Hamnett,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2017–06205 Filed 3–28–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0795]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

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), 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 Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before May 30, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts 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 No.: 3060–0795.

Title: Associate WTB & PSHSB Call Sign & Antenna Registration Number With Licensee's FRN.

Form No.: FCC Form 606.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; business or other for-profit; not-for-profit institutions; state, local or tribal government.

Number of Respondents: 5,000 respondents; 5,000 responses.

Estimated Time per Response: (15 minutes) 0.25 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 1,250 hours.

Total Annual Cost: No cost.

Nature and Extent of Confidentiality: In general there is no need for confidentiality. On a case-by-case basis, the Commission may be required to withhold from disclosure certain information about the location, character, or ownership of a historic property, including traditional religious sites.

Needs and Uses: The Commission will submit this information collection to the OMB after this 60-day comment period as an extension (no change in reporting and/or third-party disclosure requirements) to obtain the full three-year clearance from them.

Licensees use FCC Form 606 to associate their FCC Registration Number (FRN) with their Wireless Telecommunications Bureau and Public Safety Homeland Security Bureau call signs and antenna structure registration numbers. The form must be submitted before filing any subsequent applications associated with the existing license or antenna structure registration that is not associated with an FRN.

The information collected in the FCC Form 606 is used to populate the Universal Licensing System (ULS) with the FRNs of licensees and antenna structure registration owners who interact with ULS.

Federal Communications Commission.

Sheryl D. Todd,

Deputy Secretary, Office of the Secretary.

[FR Doc. 2017–06222 Filed 3–28–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Items From Sunshine Act Meeting

March 23, 2017.

The following consent agenda items have been deleted from the list of items scheduled for consideration at the Thursday, March 23, 2017, Open Meeting and previously listed in the Commission's Notice of March 16, 2017. The Consent Agenda has been adopted by the Commission.

* * * * *

Consent Agenda

The Commission will consider the following subjects listed below as a consent agenda and these items will not be presented individually:

1	Media	*Title:* WLPC, LLC, Application For Renewal of License For Class A Television Station WLPC–CD, Detroit, Michigan. *Summary:* The Commission will consider an Order adopting a Consent Decree which resolves issues regarding potential violations of the Commission's rules and grants the license renewal application of WLPC–CD.
2	Media	*Title:* Application of Razorcake/Gorsky Press, Inc. For a New LPFM Station at Pasadena, California. *Summary:* The Commission will consider a Memorandum Opinion and Order concerning the denial of objections to an application for a construction permit for a new LPFM station.
3	Media	*Title:* Immaculate Conception Apostolic School, Applications for a Construction Permit and Covering License for Noncommercial Educational Station DKJPT(FM) at Colfax, California. *Summary:* The Commission will consider an Order on Reconsideration concerning the dismissal of the licensee's Application for Review seeking reinstatement of the station's license.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2017–06297 Filed 3–27–17; 4:15 pm]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of Intent To Terminate the Receivership of 10411, SunFirst Bank, St. George, Utah

Notice is hereby given that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for SunFirst Bank, St. George, Utah (the ''Receiver''), intends to terminate its receivership for said institution. The FDIC was appointed receiver of SunFirst Bank on November 4, 2011. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors. Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: March 24, 2017.

Robert E. Feldman,

Executive Secretary, Federal Deposit Insurance Corporation.

[FR Doc. 2017–06166 Filed 3–28–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*) (HOLA), Regulation LL (12 CFR part 238), and Regulation MM (12 CFR part 239), and all other applicable statutes and regulations to become a savings and loan holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a savings association and nonbanking companies owned by the savings and loan holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the HOLA (12 U.S.C. 1467a(e)). If the proposal also involves the acquisition of a nonbanking company, the review also

includes whether the acquisition of the nonbanking company complies with the standards in section 10(c)(4)(B) of the HOLA (12 U.S.C. 1467a(c)(4)(B)). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 24, 2017.

A. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566. Comments can also be sent electronically to *Comments.applications@clev.frb.org*:.

1. *Eagle Financial Bancorp, Inc.,* Cincinnati, Ohio; to become a savings and loan holding company by acquiring Eagle Savings Bank, Cincinnati, Ohio, in connection with the mutual-to-stock conversion of Eagle Savings Bank.

Board of Governors of the Federal Reserve System, March 24, 2017.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2017–06197 Filed 3–28–17; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: 4040–0018; 30-day Notice]

Agency Information Collection Request; 30-Day Public Comment Request, Grants.gov

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, *Grants.gov* (EGOV), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, email your request, including your address, phone number, OMB number, to *Ed.Calimag@hhs.gov,* or call the Reports Clearance Office on (202) 690–7569. Send written comments and recommendations for the proposed information collections within 30 days of this notice directly to the *Grants.gov*.

Proposed Project:

SF–428 Tangible Personal Property Report.

Reinstatement without change and 3 Year Extension and assignment as a Common Form.

OMB No.: 4040–0018.

Office: Grants.gov.

Abstract: Reporting on the status of Federally owned property, including disposition, is necessitated in 2 CFR part 215, the ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations'', and the ''Uniform Administrative Requirements for Grants and Agreements with State and Local Governments'', Additionally, Public Law 106–107, the Federal Financial Assistance Management Improvement Act requires that agencies ''simplify Federal financial assistance application and reporting requirements.'' 31 U.S.C. 6101, Section 3.

Agencies are currently using a variety of forms to account for both Federally owned and grantee owned equipment and property. During the public consultation process mandated by Public Law 106–107, grant recipients requested a standard form to help them submit appropriate property information when required. The Public Law 106–107 Post Awards Subgroup developed a new standard form, the Tangible Personal Property Report, for submission of the required data. The form consists of the cover sheet (SF–428), three attachments to be used as required: Annual Report, SF–428–A; Final Report, SF–428–B; Disposition Request/Report, SF–428–C and a Supplemental Sheet, SF–428S to provide detailed individual item information when required. We are requesting a three-year clearance of this collection and that it be designated as a Common Form.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
SF–428 Tangible Personal Property Report	2000	1	1	2000
Total	2000			2000

Terry S. Clark,

Asst. Information Collection Clearance Officer.

[FR Doc. 2017–06142 Filed 3–28–17; 8:45 am]

BILLING CODE 4151–AE–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

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 meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Imaging and Biomarkers for Early Detection of Aggressive Cancer.

Date: April 21, 2017.

Time: 9:30 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892,

Contact Person: Xiang-Ning Li, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7854, Bethesda, MD 20892, 301–435–1744, *lixiang@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 23, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–06147 Filed 3–28–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Request for Information for the Development of the Fiscal Year 2019 Trans-NIH Plan for HIV-Related Research

SUMMARY: Through this Request for Information (RFI), the Office of AIDS Research (OAR) in the Division of Program Coordination, Planning, and Strategic Initiatives (DPCPSI), National Institutes of Health (NIH), invites feedback from investigators in academia, industry, health care professionals, patient advocates and health advocacy organizations, scientific or professional organizations, federal agencies, community, and other interested constituents on the development of the fiscal year (FY) 2019 Trans-NIH Plan for HIV-Related Research (FY 2019 AIDS Research Plan). This plan is designed to identify and articulate future directions to maximize the NIH's investments in HIV/AIDS research.

DATES: The OAR's Request for Information is open for public comment for a period of 45 days. Comments must be received by May 15, 2017 to ensure consideration. After the public comment period has closed, the comments received by the OAR will be considered in a timely manner for the development of the FY2019 AIDS Research Plan.

ADDRESSES: Submissions may be electronically sent to *http://grants.nih.gov/grants/rfi/rfi.cfm?ID=63* or, if needed, by mail to Paul Gaist, Ph.D., M.P.H. Office of AIDS Research, National Institutes of Health, Room 2E40, 5601 Fishers Lane, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Questions about this request for information should be directed to Paul Gaist, Ph.D., M.P.H. Office of AIDS Research, National Institutes of Health Email: *ODOARRFI19@nih.gov* or if needed, by mail to Room 2E40, 5601 Fishers Lane, Rockville, Maryland 20852.

SUPPLEMENTARY INFORMATION: To access and respond to the RFI, go to the following Web address: *http://grants.nih.gov/grants/rfi/rfi.cfm?ID=63.*

OAR oversees and coordinates the conduct and support of all HIV/AIDS research activities across the NIH Institutes and Centers (ICs). The NIH-sponsored HIV/AIDS research program includes both extramural and intramural research, buildings and facilities, research training, program evaluation, and supports a comprehensive portfolio of research representing a broad range of basic, clinical, behavioral, social science, and translational research on HIV/AIDS and its associated coinfections and comorbidities.

OAR plans and coordinates research through the development of an annual Trans-NIH Plan for HIV-Related Research that articulates the overarching HIV/AIDS research priorities and serves as the framework for developing the trans-NIH HIV/AIDS research budget. This Plan provides information about the NIH's HIV/AIDS research priorities to the scientific community, Congress, community stakeholders, HIV-affected communities, and the broad public at large. The fiscal year 2018 Trans-NIH Plan for HIV-Related Research was recently distributed on the OAR Web site: (*https://www.oar.nih.gov/strategic_plan/plan_18.asp*).

New overarching priorities for HIV/AIDS research were defined in the NIH Director's Statement of August 12, 2015 (*https://grants.nih.gov/grants/guide/notice-files/NOT-OD-15-137.html*).

High Priority topics of research for support include:

(1) Reducing the incidence of HIV/AIDS;

(2) Developing the next generation of HIV therapies;

(3) Identifying strategies towards a cure;

(4) Improving the prevention and treatment of HIV-associated comorbidities, coinfections, and complications; and

(5) Cross-cutting basic research, behavioral and social science research, health disparities, and training.

This RFI is for planning purposes only and should not be construed as a solicitation for applications or proposals, or as an obligation in any way on the part of the United States federal government. The federal government will not pay for the preparation of any information submitted or for the government's use. Additionally, the government cannot guarantee the confidentiality of the information provided.

Dated: March 23, 2017.

Lawrence A. Tabak,

Deputy Director, National Institutes of Health.

[FR Doc. 2017–06183 Filed 3–28–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of meetings of the National Center for Advancing Translational Sciences.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The 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: Cures Acceleration Network Review Board.

Date: May 4, 2017.

Time: 8:30 a.m. to 2:30 p.m.

Agenda: Report from the Institute Director.

Place: National Institutes of Health, Building 31, Conference Room 6, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Anna L. Ramsey-Ewing, Ph.D., Executive Secretary, National Center for Advancing Translational Sciences, 1 Democracy Plaza, Room 1072, Bethesda, MD 20892, 301–435–0809, *anna.ramseyewing@nih.gov*.

Name of Committee: National Center for Advancing Translational Sciences Advisory Council.

Date: May 4, 2017.

Open: 8:30 a.m. to 2:30 p.m.

Agenda: Report from the Institute Director and other staff.

Place: National Institutes of Health, Building 31, Conference Room 6, 31 Center Drive, Bethesda, MD 20892.

Closed: 3:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, Conference Room 6, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Anna L. Ramsey-Ewing, Ph.D., Executive Secretary, National Center for Advancing Translational Sciences, 1 Democracy Plaza, Room 1072, Bethesda, Md 20892, 301–435–0809, *anna.ramseyewing@nih.gov*.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: March 23, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–06148 Filed 3–28–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorder and Stroke; Special Emphasis Panel, Clinical Trials in Stroke.

Date: April 18, 2017.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Shanta Rajaram, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3204, MSC 9529, Bethesda, MD 20892–9529, (301) 435–6033, *rajarams@mail.nih.gov.*

Name of Committee: National Institute of Neurological Disorder and Stroke; Special Emphasis Panel, Loan Repayment Program 2017.

Date: April 28, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Ernest Lyons, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3204, MSC 9529, Bethesda, MD 20892–9529, (301) 496–4056, *lyonse@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: March 23, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–06149 Filed 3–28–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given that the Substance Abuse and Mental Health Services Administration's (SAMHSA's) Center for Substance Abuse Treatment (CSAT) National Advisory Council will meet on April 12, 2017, 3:00 p.m.–4:00 p.m. (EDT) in a closed teleconference meeting.

The meeting will include discussions and evaluations of grant applications reviewed by SAMHSA's Initial Review Groups, and involve an examination of confidential financial and business information as well as personal information concerning the applicants. Therefore, the meeting will be closed to the public as determined by the SAMHSA Acting Deputy Assistant Secretary for Mental Health and Substance Use in accordance with 5 U.S.C. 552b(c)(4) and (6) and 5 U.S.C. App. 2, 10(d).

Meeting information and a roster of Council members may be obtained by accessing the SAMHSA Committee Web site at *http://www.samhsa.gov/about-us/advisory-councils/csat-national-advisory-council* or by contacting the CSAT National Advisory Council Designated Federal Officer, Tracy Goss (see contact information below).

Council Name: SAMHSA's Center for Substance Abuse Treatment National Advisory Council.

Date/Time/Type: April 12, 2017, 3:00 p.m.–4:00 p.m. EDT, CLOSED.

Place: SAMHSA, 5600 Fishers Lane, Rockville, Maryland 20857.

Contact: Tracy Goss, Designated Federal Officer, CSAT National Advisory Council, 5600 Fishers Lane, Rockville, Maryland 20857 (mail), Telephone: (240) 276–0759, Fax: (240) 276–2252, Email: *tracy.goss@samhsa.hhs.gov.*

Carlos Castillo,

Committee Management Officer, SAMHSA.

[FR Doc. 2017–06168 Filed 3–28–17; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are 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; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Participant Feedback on Training Under the Cooperative Agreement for Mental Health Care Provider Education in HIV/AIDS Program (OMB No. 0930–0195)—Extension

The Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Mental Health Services (CMHS) intends to continue to conduct a multi-site assessment for the Mental Health Care Provider Education in HIV/AIDS Program. There are no changes to the forms or the burden hours.

The education programs are funded under a cooperative agreement that are designed to disseminate knowledge of the psychological and neuropsychiatric sequelae of HIV/AIDS to both traditional (*e.g.,* psychiatrists, psychologists, nurses, primary care physicians, medical students, and social workers) and non-traditional (*e.g.,* clergy, and alternative health care workers) first-line providers of mental health services, in particular to providers in minority communities.

The multi-site assessment is designed to assess the effectiveness of particular training curricula, document the integrity of training delivery formats, and assess the effectiveness of the various training delivery formats. Analyses will assist CMHS in documenting the numbers and types of traditional and non-traditional mental health providers accessing training; the content, nature and types of training participants receive; and the extent to which trainees experience knowledge, skill and attitude gains/changes as a result of training attendance. The multi-site data collection design uses a two-tiered data collection and analytic strategy to collect information on (1) the organization and delivery of training, and (2) the impact of training on participants' knowledge, skills and abilities.

The annual burden estimates for this activity are shown in the table below.

ANNUAL BURDEN ESTIMATE

Annualized Burden Estimates and Costs					
Mental Health Care Provider Education in HIV/AIDS Program (10 sites)					
Form	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden
All Sessions One form per session completed by program staff/trainer					
Session Report Form	600	1	600	0.08	48
Participant Feedback Form (General Education)	5,000	1	5,000	0.167	835
Neuropsychiatric Participant Feedback Form	4,000	1	4,000	0.167	668
Adherence Participant Feedback Form	1,000	1	1,000	0.167	167
Ethics Participant Feedback Form	2,000	1	2,000	0.167	125
Total	12,600		12,600		1,843

Send comments to Summer King, SAMHSA Reports Clearance Officer, 5600 Fishers Lane, Room 15E57–B, Rockville, MD 20857 *OR* email a copy at *summer.king@samhsa.hhs.gov.* Written comments should be received by May 30, 2017.

Summer King,

Statistician.

[FR Doc. 2017–06129 Filed 3–28–17; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0013]

Agency Information Collection Activities: Entry and Manifest of Merchandise Free of Duty, Carrier's Certificate and Release

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection 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 information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted (no later than May 30, 2017) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0013 in the subject line and the agency name. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Email:* Submit comments to: *CBP_PRA@cbp.dhs.gov.*

(2) *Mail:* Submit written comments to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade,

Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP Web site at *www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Entry and Manifest of Merchandise Free of Duty, Carrier's Certificate and Release.

OMB Number: 1651–0013.

Form Number: CBP Form 7523.

Current Actions: CBP proposes to extend the expiration date of this information collection. There is no change to the burden hours or the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Abstract: CBP Form 7523, *Entry and Manifest of Merchandise Free of Duty, Carrier's Certificate and Release,* is used by carriers and importers as a manifest for the entry of merchandise free of duty under certain conditions. CBP Form 7523 is also used by carriers to show that articles being imported are to be released to the importer or consignee, and as an inward foreign manifest for a vehicle or a vessel of less than 5 net tons arriving in the United States from Canada or Mexico with merchandise conditionally free of duty. CBP uses this form to authorize the entry of such merchandise. CBP Form 7523 is authorized by 19 U.S.C. 1433, 1484 and 1498. It is provided for by 19 CFR 123.4 and 19 CFR 143.23. This form is accessible at *https://www.cbp.gov/newsroom/publications/forms?title=7523&=Apply.*

Estimated Number of Respondents: 4,950.

Estimated Number of Responses per Respondent: 20.

Estimated Total Annual Responses: 99,000.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 8,247.

Dated: March 24, 2017.

Seth Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2017–06212 Filed 3–28–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0051]

Agency Information Collection Activities: Foreign Trade Zone Annual Reconciliation Certification and Record Keeping Requirement

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection 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 information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted (no later than May 30, 2017 to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0051 in the subject line and the agency name. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Email:* Submit comments to: *CBP_PRA@cbp.dhs.gov.*

(2) *Mail:* Submit written comments to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP Web site at *www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Foreign Trade Zone Annual Reconciliation Certification and Record Keeping Requirement.

OMB Number: 1651–0051.

Form Number: None.

Current Actions: CBP proposes to extend the expiration date of this information collection. There is no

change to the burden hours, the information collected, or to the record keeping requirements.

Type of Review: Extension (without change).

Affected Public: Businesses or other for-profit institutions.

Abstract: In accordance with 19 CFR 146.4 and 146.25 foreign trade zone (FTZ) operators are required to account for zone merchandise admitted, stored, manipulated and removed from FTZs. FTZ operators must prepare a reconciliation report within 90 days after the end of the zone year for a spot check or audit by CBP. In addition, within 10 working days after the annual reconciliation, FTZ operators must submit to the CBP port director a letter signed by the operator certifying that the annual reconciliation has been prepared and is available for CBP review and is accurate. These requirements are authorized by Foreign Trade Zones Act, as amended (Pub. L. 104–201, 19 U.S.C. 81a *et seq.*)

Record Keeping Requirements Under 19 CFR 146.4

Estimated Number of Respondents: 276.

Estimated Time per Respondent: 45 minutes.

Estimated Total Annual Burden Hours: 207.

Certification Letter Under 19 CFR 146.25

Estimated Number of Respondents: 276.

Estimated Time per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 91.

Dated: March 24, 2017.

Seth Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2017–06209 Filed 3–28–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0058]

Agency Information Collection Activities: Documents Required Aboard Private Aircraft

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection 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 information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted (no later than May 30, 2017) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0058 in the subject line and the agency name. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Email:* Submit comments to: *CBP_PRA@cbp.dhs.gov.*

(2) *Mail:* Submit written comments to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP Web site at *www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Documents Required Aboard Private Aircraft.

OMB Number: 1651–0058.

Form Number: None.

Current Actions: CBP proposes to extend the expiration date of this information collection. There is no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Individuals.

Abstract: In accordance with 19 CFR 122.27(c), a commander of a private aircraft arriving in the U.S. must present several documents to CBP officers for inspection. These documents include: (1) A pilot certificate/license; (2) a medical certificate; and (3) a certificate of registration. The information on these documents is used by CBP officers as an essential part of the inspection process for private aircraft arriving from a foreign country. These requirements are authorized by 19 U.S.C. 1433, as amended by Public Law 99–570.

Estimated Number of Respondents: 120,000.

Estimated Number of Annual Responses: 120,000.

Estimated Time per Response: 1 minute.

Estimated Total Annual Burden Hours: 1,992.

Dated: March 24, 2017.

Seth Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2017–06210 Filed 3–28–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0131]

Agency Information Collection Activities: e-Allegations Submission

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection 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 information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted (no later than May 30, 2017 to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0131 in the subject line and the agency name. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Email.* Submit comments to: *CBP_PRA@cbp.dhs.gov.*

(2) *Mail.* Submit written comments to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP Web site at *www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: e-Allegations Submission.

OMB Number: 1651–0131.

Form Number: None.

Current Actions: CBP proposes to extend the expiration date of this information collection. There is no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals.

Abstract: In the interest of detecting trade violations to customs laws, Customs and Border Protection (CBP) established the e-Allegations Web site to provide a means for concerned members of the trade community to confidentially report violations to CBP. The e-Allegations site allows the public to submit pertinent information that assists CBP in its decision whether or not to pursue the alleged violations by initiating an investigation. The information collected includes the name, phone number and email address of the member of the trade community reporting the alleged violation. It also includes a description of the alleged violation, and the name and address of the potential violators. The e-Allegations Web site is accessible at *https://apps.cbp.gov/eallegations/.*

Estimated Number of Respondents: 1,600.

Estimated Number of Total Annual Responses: 1,600.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 400.

Dated: March 24, 2017.

Seth Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2017–06211 Filed 3–28–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2017–0010; OMB No. 1660–0047]

Agency Information Collection Activities: Proposed Collection; Comment Request; Request for Federal Assistance Form—How To Process Mission Assignments in Federal Disaster Operations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the collection of information necessary to allow FEMA to support the needs of States during disaster situations through the use of other Federal agency resources.

DATES: Comments must be submitted on or before May 30, 2017.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2017–0010. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW., 8NE, Washington, DC 20472–3100.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Patricia Pritchett, Program Specialist, Response Directorate, Operations Division, National Response Coordination Center, Federal Emergency Management Agency, (202) 646–3411

for additional information. You may contact the Records Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: Under Section 653 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5121 *et seq.,* FEMA is authorized to provide assistance to States based on needs before, during, and after a disaster has impacted the State. For a major disaster, the Stafford Act authorizes FEMA to direct any agency to utilize its existing authorities and resources in support of State and local assistance response and recovery efforts. *See* 42 U.S.C. 5170(a)(1). For an emergency, the Stafford Act authorizes FEMA to direct any agency to utilize its existing authorities and resources in support of State and local emergency assistance efforts. *See* 42 U.S.C. 5192(a)(1). FEMA may task other Federal agencies to assist during disasters and to support emergency efforts by State and local governments by issuing a mission assignment to the appropriate agency. *See* 44 CFR 206.5, 206.208. FEMA collects the information necessary to determine what resources are needed and if a mission assignment is appropriate. The information collected explains which State(s) require assistance, what needs to be accomplished, details any resource shortfalls, and explains what assistance is required to meet these needs.

Collection of Information

Title: Request for Federal Assistance Form—How to Process Mission Assignments in Federal Disaster Operations.

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0047.

FEMA Forms: FEMA Form 010–0–7, Resource Request Form; FEMA Form 010–0–8, Mission Assignment.

Abstract: If a State determines that its capacity to respond to a disaster exceeds its available resources, it may submit to FEMA a request that the work be accomplished by a Federal agency. This request documents how the response requirements exceed the capacity for the State to respond to the situation on its own and what type of assistance is required. FEMA reviews this information and may issue a mission assignment to the appropriate Federal agency to assist the State in its response to the situation.

Affected Public: State, local or Tribal Government.

Number of Respondents: 10.

Number of Responses: 12,820.

Estimated Total Annual Burden Hours: 4,426 hours.

Estimated Cost: The estimated annual cost to respondents for the hour burden is $301,056.52. There are no annual costs to respondents operations and maintenance costs for technical services. There is no annual start-up or capital costs. The cost to the Federal Government is $28,309.28.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Dated: March 22, 2017.

Tammi Hines

Acting, Records Management Program Chief, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2017–06184 Filed 3–28–17; 8:45 am]

BILLING CODE 9111–24–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5946–N–04]

Notice of Regulatory Waiver Requests Granted for the Fourth Quarter of Calendar Year 2016

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the HUD Reform Act) requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers that HUD has approved. Each notice covers the quarterly period since the previous **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the period beginning on October 1, 2016, and ending on December 31, 2016.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Ariel Pereira, Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, 451 7th Street SW., Room 10282, Washington, DC 20410–0500, telephone 202–708–3055 (this is not a toll-free number). Persons with hearing- or speech-impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

For information concerning a particular waiver that was granted and for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waivers that have been granted in the fourth quarter of calendar year 2016.

SUPPLEMENTARY INFORMATION: Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request; and

e. State how additional information about a particular waiver may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions

that are not relevant to the purpose of this notice.

This notice follows procedures provided in HUD's Statement of Policy on Waiver of Regulations and Directives issued on April 22, 1991 (56 FR 16337). In accordance with those procedures and with the requirements of section 106 of the HUD Reform Act, waivers of regulations are granted by the Assistant Secretary with jurisdiction over the regulations for which a waiver was requested. In those cases in which a General Deputy Assistant Secretary granted the waiver, the General Deputy Assistant Secretary was serving in the absence of the Assistant Secretary in accordance with the office's Order of Succession.

This notice covers waivers of regulations granted by HUD from October 1, 2016 through December 31, 2016. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Housing, and the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the regulatory section of title 24 of the Code of Federal Regulations (CFR) that is being waived. For example, a waiver of a provision in 24 CFR part 58 would be listed before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement that appears in 24 CFR and that is being waived. For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.

Waiver of regulations that involve the same initial regulatory citation are in time sequence beginning with the earliest-dated regulatory waiver.

Should HUD receive additional information about waivers granted during the period covered by this report (the fourth quarter of calendar year 2016) before the next report is published (the first quarter of calendar year 2017), HUD will include any additional waivers granted for the fourth quarter in the next report.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Dated: March 24, 2017.

Ariel Pereira,

Associate General Counsel for Legislation and Regulations.

Appendix—

Listing of Waivers of Regulatory Requirements Granted by Offices of the Department of Housing and Urban Development October 1, 2016 Through December 31, 2016

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly after each set of regulatory waivers granted.

The regulatory waivers granted appear in the following order:

I. Regulatory waivers granted by the Office of Community Planning and Development.
II. Regulatory waivers granted by the Office of Housing.
III. Regulatory waivers granted by the Office of Public and Indian Housing.

I. Regulatory Waivers Granted by the Office of Community Planning and Development

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 91.105(c)(2).

Project/Activity: Lafayette, LA.

Nature of Requirement: The regulation at 24 CFR 91.105(c)(2) requires a 30-day public comment period prior to the implementation of a substantial amendment to a grantee's consolidated plan.

Granted By: Harriet Tregoning, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 6, 2016.

Reason Waived: Lafayette, LA City-Parish was affected by severe flooding August 11–31, 2016, causing substantial property damage. A Presidentially-declared disaster declaration (FEMA–DR–4277) was initially issued on August 14, 2016. Amendment No. 1 issued on August 16, 2016, included multiple, additional parishes, including Lafayette Parish, that were adversely affected by the severe storms and flooding that occurred for the effective period of August 11–31, 2016. The waiver was issued to reduce the required comment period to seven days to allow the City-Parish to expedite recovery efforts for low and moderate income residents affected by the flooding.

Contact: Steve Johnson, Director, Entitlement Communities Division, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7282, Washington, DC 20410, telephone (202) 402–4548.

• *Regulation:* 24 CFR 91.105(c)(2), 24 CFR 570.201(e)(1), and 24 CFR 570.207(b)(3).

Project/Activity: Baton Rouge, LA.

Nature of Requirement: The regulations at 24 CFR 91.105(c)(2), 24 CFR 570.201(e)(1), and 24 CFR 570.207(b)(3) require a 30-day public comment period prior to the implementation of a substantial amendment to a grantee's consolidated plan, limit the amount of CDBG funds used for public services to no more than 15 percent of each grant, and prohibit CDBG grantees from carrying out new construction of housing, respectively.

Granted By: Harriet Tregoning, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 6, 2016.

Reason Waived: Baton Rouge, LA City-Parish was affected by severe flooding August 11–31, 2016, causing substantial property damage. A Presidentially-declared disaster declaration (FEMA–DR–4277) was initially issued on August 14, 2016. The declaration covers the severe storms and flooding that occurred for the effective period of August 11–31, 2016. These waivers, and accompanying statutory suspensions under Section 122 of the Housing and Community Development Act of 1974, were granted to allow Baton Rouge to expedite recovery efforts for low and moderate income residents affected by the flooding by reducing the required public comment period to seven days; pay for additional support services for affected individuals and families, including, but not limited to, food, health, employment, and case management services to help county residents impacted by the flooding; and allow grantees to use their CDBG funds for new housing construction to replace affordable housing units lost as a result of the storms and flooding.

Contact: Steve Johnson, Director, Entitlement Communities Division, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7282, Washington, DC 20410, telephone (202) 402–4548.

• *Regulation:* 24 CFR 570.200(h).

Project/Activity: On December 15, 2016, HUD issued CPD Notice #CPD–16–18 implementing procedures to govern the submission and review of consolidated plans and action plans for FY 2017 funding prior to the enactment of a FY 2017 HUD appropriation bill. These procedures apply to any Entitlement, Insular or Hawaii nonentitlement grantee with a program year start date prior to, or up to 60 days after, HUD's announcement of the FY 2017 formula program funding allocations for CDBG, ESG, HOME and HOPWA formula funding.

Nature of Requirement: The Entitlement CDBG program regulation at 24 CFR 570.200(h) authorizes a grantee to incur costs against its CDBG grant prior to the effective date of its grant agreement with HUD. Under this regulation, the effective date of a grantee's grant agreement is either the grantee's program year start date or the date that the grantee's consolidated plan/action plan is received by HUD, whichever is later. This waiver was issued to the extent necessary to treat the effective date of a grantee's grant agreement as the grantee's program year start date or date or the date that the grantee's consolidated plan/action plan is received by HUD, whichever is earlier.

Granted By: Harriet Tregoning, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 15, 2016, for effect on October 14, 2015.

Reason Waived: Under the provisions of the Notice, a grantee's consolidated plan/action plan may not be submitted to (and thus received by) HUD until several months after the grantee's program year start date. Lengthy delays in the enactment of FY 2017 appropriations for the Department, and implementation of the policy to delay submission of FY 2017 Action Plans, may have negative consequences for CDBG grantees that intend to incur eligible costs prior to the award of FY 2017 funding. Some activities might otherwise be interrupted while implementing these revised procedures. In addition, grantees might not otherwise be able to use CDBG funds for planning and administrative costs of administering their programs. In order to address communities' needs and to ensure that programs can continue without disturbance, this waiver was issued to allow grantees to incur pre-award costs on a timetable comparable to that under which grantees have operated in past years. This waiver is available for use by any applicable CDBG grantee whose action plan submission is delayed past the normal submission date because of delayed enactment of FY 2017 appropriations for the Department. This waiver authority is only in effect until August 16, 2017.

Contact: Steve Johnson, Director, Entitlement Communities Division, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7282, Washington, DC 20410, telephone (202) 402–4548.

• *Regulation:* 24 CFR 576.403 and 24 CFR 576.106.

Project/Activity: State of Texas.

Nature of Requirement: 24 CFR 576.403(c) states that Emergency Solutions Grants (ESG) funds cannot be used to assist participants living in, or moving into, housing that does not meet Minimum Habitability Standards. 24 CFR 576.106(d) prevents ESG rental assistance funds from being used to provide rental assistance in a unit that exceeds HUD determined Fair Market Rent(FMR).

Granted By: Harriet Tregoning, Principal Deputy Assistant Secretary for Community Planning and Development (CPD).

Date Granted: November 21, 2016.

Reason Waived: HUD granted a limited, conditional waiver of 24 CFR 576.403(c) to allow subrecipients to provide the legal services necessary to prevent eviction and/or obtain the necessary repairs to bring program participants' units up to the required standards and stabilize them in their housing. In addition, because the state provided sufficient documentation of its subrecipients inability to provide adequate ESG rental assistance in units at or below FMR, HUD waived 24 CFR 576.106(d)(1) to allow subrecipients in certain areas to provide ESG rental assistance for units with rents up to the payment standard adopted by the applicable PHA.

Contact: Shirley J. Henley, Director, Office or Community Planning and Development, Department of Housing and Urban Development, 801 Cherry Street, Unit 45 Suite 2500, Room 2884, Fort Worth, TX 76102, telephone (817) 978–5951.

• *Regulation:* CPD Notice 14–10.

Project/Activity: Langworthy Field, Hopkinton, Rhode Island.

Nature of Requirement: This notice sets forth the transition from the use of the Decennial Census data to the American Communities Survey data by the Department and provides specific implementation guidance for State Community Development Block Grant program participants in doing so. This notice has an effective date for which this transition must occur for program participants.

Granted By: Harriet Tregoning, Principal Assistant Secretary for Community Planning and Development.

Date Granted: December 8, 2016.

Reason Waived: The Langworthy Field project has been funded out of multiple years funding and in order to finalize the project and comply with the area benefit national objective for the State Community Development Block Grant Program, the effective date of CPD Notice 14–10 needed to be waived and a new effective date be established, for this activity only, so that it may be completed.

Contact: James Höemann, Deputy Director, Office of State and Small Cities Division, Department of Housing and Urban Development, 451 7th Street SW., Room 7184, Washington, DC 20410, telephone (202) 402–5716.

II. Regulatory Waivers Granted by the Office of Housing—Federal Housing Administration (FHA)

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 219.220(b).

Project/Activity: Leigh Johnson Apartments, FHA Project Number 071–44087T, Chicago, Illinois. 73rd & Dobson Housing Corporation (Owner) seeks approval to defer repayment of the Flexible Subsidy Operating Assistance Loan on the subject project.

Nature of Requirement: The regulation at 24 CFR 219.220(b) (1995), which governs the repayment of operating assistance provided under the Flexible Subsidy Program for Troubled Properties, states ''Assistance that has been paid to a project owner under this subpart must be repaid at the earlier of the expiration of the term of the mortgage, termination of mortgage insurance, prepayment of the mortgage, or a sale of the project.''

Granted By: Edward L. Golding, Principal Deputy Assistant Secretary for Housing.

Date Granted: November 3, 2016.

Reason Waived: The owner requested and was granted a waiver of the requirement to repay the Flexible Subsidy Operating Assistance Loan in full when it became due. Deferring the loan payment will preserve this affordable housing resource for an additional 20 years through the execution and recordation of a Rental Use Agreement.

Contact: Marilynne Hutchins, Senior Account Executive, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6174, Washington, DC 20410, telephone (202) 402–4323.

• *Regulation:* 24 CFR 266.200(b)(2).

Project/Activity: Federal Financing Bank (FFB) Risk Sharing Initiative, Substantial Rehabilitation, New York State Housing (NYCHDC). Waivers of certain provisions of the Risk Sharing Program regulations for 14 projects utilizing the Federal Financing Bank (FFB) Risk Sharing Initiative in calendar year 2016.

Nature of Requirement: The 24 CFR part 266.200(b)(2) Substantial Rehabilitation. The Department will permit the revised definition of substantial rehabilitation (S/R) in the revised MAP Guide published on January 29, 2016, such that S/R is: Any scope of work that either: (a) Exceeds in aggregate cost a sum equal to the 'base per dwelling unit limit' times the applicable High Cost Factor, or (b) Replacement of two or more building systems. 'Replacement' is when the cost of replacement work exceeds 50 percent of the cost of replacing the entire system. The base limit is revised to $15,000 per unit for 2015, and will be adjusted annually based on the percentage change published by the Consumer Financial Protection Bureau, or other inflation cost index published by HUD.

Granted By: Edward L. Golding, Principal Deputy Assistant Secretary for Housing.

Date Granted: October 27, 2016.

Reason Waived: Necessary to effectuate the Federal Financing Bank (FFB) Risk Sharing Initiative between Housing and Urban Development and the Treasury Department/FFB announced in Fiscal Year 2014. The approval and execution of the FFB Risk Sharing Agreement will facilitate the expansion of the program to increase the supply of affordable rental housing and to assist in the preservation of existing of rental housing. Under this Initiative, FFB provides capital to participating Housing Finance Agencies (HFAs) to make multifamily loans insured under the FHA Multifamily Risk Sharing Program.

Contact: Daniel J. Sullivan, Acting Director, Office of Multifamily Production, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6134, Washington, DC 20410, telephone (202) 402–6130.

• *Regulation:* 24 CFR 266.200(c)(2).

Project/Activity: Federal Financing Bank (FFB) Risk Sharing Initiative, Equity Take-Outs. New York State Housing Finance Agency (NYSHFA). Waivers of certain provisions of the Risk Sharing Program regulations for 14 projects utilizing the Federal Financing Bank (FFB) Risk Sharing Initiative in calendar year 2016.

Nature of Requirement: Equity take-outs for existing projects (refinance transactions): Permit the insured mortgage to exceed the sum of the total cost of acquisition, cost of financing, cost of repairs, and reasonable transaction costs or ''equity take-outs'' in refinances of HFA-financed projects *and* those outside of HFA's portfolio if the result is preservation with the following conditions:

1. Occupancy is no less than 93% for previous 12 months;

2. No defaults in the last 12 months of the HFA loan to be refinanced;

3. A 20 year affordable housing deed restriction placed on title that conforms to the 542(c) statutory definition;

4. A Property Capital Needs Assessment (PCNA) must be performed and funds escrowed for all necessary repairs, and reserves funded for future capital needs; and

5. For projects subsidized by Section 8 Housing Assistance Payment (HAP) contracts:

a. Owner agrees to renew HAP contract(s) for 20-year term, (subject to appropriations and statutory authorization, etc.,), and

b. In accordance with regulations found in 24 CFR 883.306(e), and Housing Notice 2012–14—Use of ''New Regulation'' Section 8 Housing Assistance Payments (HAP) Contracts Residual Receipts of Offset Project-Based Section 8 Housing Assistance Payments, if at any time NYSHFA determines that a project's excess funds (surplus cash) after project operations, reserve requirements and permitted distributions are met, NYSHFA must place the excess funds into a separate interest-bearing account. Upon renewal of a HAP Contract the excess funds can be used to reduce future HAP payments or other project operations/purposes. When the HAP Contract expires, is terminated, or any extensions are terminated, any unused funds remaining in the Residual Receipt Account at the time of the contract's termination must be returned to HUD.

Granted By: Edward L. Golding, Principal Deputy Assistant Secretary for Housing.

Date Granted: October 27, 2016.

Reason Waived: Necessary to effectuate the Federal Financing Bank (FFB) Risk Sharing Initiative between Housing and Urban Development and the Treasury Department/FFB announced in Fiscal Year 2014. The approval and execution of the FFB Risk Sharing Agreement will facilitate the expansion of the program to increase the supply of affordable rental housing and to assist in the preservation of existing of rental housing. Under this Initiative, FFB provides capital to participating Housing Finance Agencies (HFAs) to make multifamily loans insured under the FHA Multifamily Risk Sharing Program.

Contact: Daniel J. Sullivan, Acting Director, Office of Multifamily Production, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6134, Washington, DC 20410, telephone (202) 402–6130.

- *Regulation:* 24 CFR 266.410(e).

Project/Activity: New York State Housing Finance Agency (NYSHFA), an approved Section 542(c) Housing Finance Agency Risk Sharing Program participant under the authority of Section 542(c), and implementing regulations under 24 CFR part 266, requested a waiver of 24 CFR Section 266.410(e), which requires insured mortgages to be fully amortized over the term of the mortgage. The waiver request was for Ocean Bay Apartments, a 1,400-unit public housing conversion in Arvene, New York, which is utilizing the Rental Assistance Demonstration (RAD) Program. All units are affordable in the property. The property suffered severe losses resulting from Superstorm Sandy, and has been operating with temporary heating equipment since that time. The waiver of the requirement would permit the HFA to structure the loan with a 40-year amortization with a term of 35 years. In addition, NYSHFA has elected to use a Level II risk level (90–10) with an insured risk share mortgage of $92 million.

Nature of Requirement: Section 266.410(e) governs the amortization, which the mortgage must provide for complete amortization (*i.e.,* regularly amortizing over the term of the mortgage).

Granted By: Edward L. Golding, Principal Deputy Assistant Secretary for Housing.

Date Granted: December 29, 2016.

Reason Waived: New York State Housing Finance Agency requested and was granted waiver of the requirement for Ocean Bay Apartments in order to fulfil the Firm Commitment condition issued on November 22, 2016, which required an approval of the waiver or it would become null and void. The approval of the waiver for a longer amortization period ensured that the RAD project can both be financed and meet required debt service coverage ratios. In addition, granting the waiver helped preserve affordable housing and furthered Superstorm Sandy rehabilitation efforts. Therefore, under the authority of 24 CFR 5.110, HUD waived 24 CFR 266.410(e) to permit a 35-year term with a 40-year amortization for Ocean Bay Apartment. The waiver approval is subject to the following conditions: (1) Accordance with 24 CFR 266.200(d), the mortgage may not exceed an amount supportable by the lower of Section 8 or comparable unassisted market rents; (2) occupancy is no less than 93 percent for previous 12 months; (3) no default in the last 12 months of the HFA loan to be refinanced; (4) Due to the project being subsidized by Section 8 Housing Assistance Payment (HAP) contracts: (a) Owner agrees to renew HAP contract for 20-year term, (subject to appropriations and statutory authorization, etc.) and the project excess funds (surplus cash) shall be held or disbursed in accordance with the RAD Program requirements pursuant to Notice PIH 2012–32 (HA) REV–2.

Contact: Donald Billingsley, Acting Director, Program Administration Division, Office of Multifamily Production, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6142, Washington, DC 20410, telephone (202) 402–7125.

- *Regulation:* 24 CFR 266.410(e).

Project/Activity: Rhode Island Housing and Mortgage Finance Corporation, an approved Section 542(c) Housing Finance Agency Risk Sharing Program participant under the authority of Section 542(c) and implementing regulations under 24 CFR part 266 requested a waiver of 24 CFR Section 266.410(e), which requires mortgages insured to be fully amortized over the term of the mortgage. The waiver of the requirement would permit the HFA to provide loans for three preservation transactions that would amortize over 30 to 40 years, but mature within 17 to 25 years to go into effect on November 1, 2016 for a one-year period.

Nature of Requirement: Section 266.410(e) governs the amortization, which the mortgage must provide for complete amortization (*i.e.,* regularly amortizing over the term of the mortgage).

Granted By: Edward L. Golding, Principal Deputy Assistant Secretary for Housing.

Date Granted: November 23, 2016 (original waiver); December 29, 2016 (amended waiver).

Reason Waived: Rhode Island Housing and Mortgage Finance Corporation requested and was originally granted waiver of the requirement in order to provide flexibility for three preservation projects in the organization's portfolio that do not meet the requirements of the 542(c) Risk Sharing Initiative Program. Therefore, under the authority of 24 CFR 5.110, HUD waived 24 CFR 266.410(e) to permit a term as short as 17 years to 25 years (''Balloon Loans'') for three projects in the organization's portfolio. HUD amended the original waiver since Rhode Island Housing and Mortgage Finance Corporation requested that the provision related to transactions being in the organization's portfolio be deleted from the waiver approval. HUD approved the amended waiver request which is subject to the same conditions of the original approval: (1) Rhode Island Housing and Mortgage Finance Corporation must elect 50 percent or more of the risk of loss on all transaction; (2) the waiver is in effect from November 1, 2016 to November 1, 2017; (3) in accordance with 24 CFR 266.200(d), the mortgage may not exceed an amount supportable by the lower of Section 8 or comparable unassisted market rents; (4) the HFA must comply with regulations stated in 24 CFR 266.210 for insured advance or insurance upon completion transactions; (5) the projects must comply with Davis-Bacon labor standards in accordance with 24 CFR 266.225; (6) all other requirements of CFR 24 266.410 remain applicable and the waiver is only applicable for substantial rehabilitation of three existing loans in the HFA's portfolio; and (7) all affordable housing deed restriction for 20 years must be recorded.

Contact: Donald Billingsley, Acting Director, Program Administration Division, Office of Multifamily Production, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6142, Washington, DC 20410–8000, telephone: (202) 402–7125.

- *Regulation:* 24 CFR 266.620(e).

Project/Activity: Federal Financing Bank (FFB) Risk Sharing Initiative, Termination of Mortgage Insurance. New York State Housing Finance Agency (NYSHFA). Waivers of certain provisions of the Risk Sharing Program regulations for 14 projects utilizing the Federal Financing Bank (FFB) Risk Sharing Initiative in calendar year 2016.

Nature of Requirement: The 24CFR part 266.620(e) Termination of Mortgage Insurance. As required by the Initiative, New York State Housing Finance Agency (NYSHFA) agrees to indemnify HUD for all amounts paid to FFB if ''the HFA or its successors commit fraud, or make a material misrepresentation to the Commissioner with respect to information culminating in the Contract of Insurance on the mortgage, or while the Contract of Insurance is in existence.'' Only Level I HFAs are eligible for FFB financing, thereby ensuring the HFA maintains financial capacity to perform under the indemnification agreement. If the HFA loses its ''A'' rating, HFA must post the required reserve account as outlined in CFR 266.110(b)

Granted By: Edward L. Golding, Principal Deputy Assistant Secretary for Housing.

Date Granted: October 27, 2016.

Reason Waived: Necessary to effectuate the Federal Financing Bank (FFB) Risk Sharing Initiative between Housing and Urban Development and the Treasury Department/FFB announced in Fiscal Year 2014. The approval and execution of the FFB Risk Sharing Agreement will facilitate the expansion of the program to increase the supply of affordable rental housing and to assist in the preservation of existing of rental housing. Under this Initiative, FFB provides capital to participating Housing Finance Agencies (HFAs) to make multifamily loans insured under the FHA Multifamily Risk Sharing Program.

Contact: Daniel J. Sullivan, Acting Director, Office of Multifamily Production, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6134, Washington, DC 20410, telephone (202) 402–6130.

• *Regulation:* 24 CFR 290.30(a).

Project/Activity: Miramar Court Apartments, FHA Project Number 012–57123V, Bronx, New York. LRF Housing Associates, L.P. (Owner) seeks approval to waive the non-competitive sale of a HUD-held multifamily mortgage.

Nature of Requirement: The regulation at 24 CFR 290.30(a), which governs the sale of HUD-held mortgages, states that ''[e]xcept as otherwise provided in Section 290.31(a)(2), HUD will sell HUD-held multifamily mortgages on a competitive basis.''

Granted by: Edward L. Golding, Principal Deputy Assistant Secretary for Housing, H

Date Granted: November 14, 2016.

Reason Waived: The owner requested and was granted a waiver of the non-competitive sale of a HUD-held multifamily mortgage. A waiver allows the Department to assign the mortgage to the owner's new mortgagee to avoid paying mortgage recording tax in the State of New York.

Contact: Cindy Bridges, Senior Account Executive, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6168, Washington, DC 20410, telephone (202) 402–2603.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: VOA Living Center of Lake City, Lake City, FL, Project Number: 063–HD030/FL29–W101–004.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted By: Edward L. Golding, Principal Deputy Assistant Secretary for Housing.

Date Granted: November 18, 2016.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner has exhausted all efforts to obtain additional funding from other sources.

Contact: Alicia Anderson, Branch Chief, Grants and New Funding, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6138, Washington, DC 20410, telephone (202) 402–5787.

• *Regulation:* 24 CFR 891.130(a).

Project/Activity: Teaneck Senior Housing, Teaneck, NJ, Project Number: 031–EE077/NJ39–S091–004.

Nature of Requirement: Section 891.130(a) prohibits Officers or Board members of either the Sponsor or the Owners (or Borrowers, as applicable) to have any financial interest in any contract with the Owner or in any firm which has a contract with the Owner. This restriction applies as long as the individual is serving on the Board and for a period of three years following resignation or final closing, whichever occurs later.

Granted By: Edward L. Golding, Principal Deputy Assistant Secretary for Housing.

Date Granted: October 24, 2016.

Reason Waived: The integrity of the Section 202 or Section 811 program is not jeopardized and the service to be provided would not otherwise be readily available. They meet HUD requirements.

Contact: Alicia Anderson, Branch Chief, Grants and New Funding, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6138, Washington, DC 20410, telephone (202) 402–5787.

• *Regulation:* 24 CFR 891.165.

Project/Activity: VOA Living Center of Lake City, Lake City, FL, Project Number: 063–HD030/FL29–Q101–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18-months from the date of issuance with limited exceptions up to 36 months, as approved by HUD on a case-by-case basis.

Granted By: Edward L. Golding, Principal Deputy Assistant Secretary for Housing.

Date Granted: December 13, 2016.

Reason Waived: Additional time was needed to review the initial closing package.

Contact: Alicia Anderson, Branch Chief, Grants and New Funding, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6138, Washington, DC 20410, telephone (202) 402–5787.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Rosa Parks II Senior Housing, San Francisco, CA, Project Number: 121–EE225/CA39–S101–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18-months from the date of issuance with limited exceptions up to 36 months, as approved by HUD on a case-by-case basis.

Granted By: Edward L. Golding, Principal Deputy Assistant Secretary for Housing.

Date Granted: December 28, 2016.

Reason Waived: Additional time was needed for the Tax Credit Limited Partners to pay the Owner its contributions in May 2017 for the construction loan.

Contact: Alicia Anderson, Branch Chief, Grants and New Funding, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6138, Washington, DC 20410, telephone (202) 402–5787.

III. Regulatory Waivers Granted by the Office of Public and Indian Housing

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 982.503.

Project/Activity: Chattanooga Housing Authority in Chattanooga, Tennessee, requested a waiver of 24 CFR 982.503 so that it could continue using Small Area Fair Market Rents (SAFMR) beyond the end of the demonstration period.

Nature of Requirement: 24 CFR 982.503 establishes the regulatory requirement for the setting of payment standards and schedules for the Housing Choice Voucher program.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: November 22, 2016.

Reason Waived: This regulation was waived since without a waiver, the agency would have to cease using SAFMRs which had been in effect since October 2012 and could present a hardship on families.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.503.

Project/Activity: Housing Authority of Cook County in Chicago, Illinois, requested a waiver of 24 CFR 982.503 so that it could continue using Small Area Fair Market Rents (SAFMR) beyond the end of the demonstration period.

Nature of Requirement: 24 CFR 982.503 establishes the regulatory requirement for the setting of payment standards and schedules for the Housing Choice Voucher program.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: November 22, 2016.

Reason Waived: This regulation was waived since without a waiver, the agency would have to cease using SAFMRs which had been in effect since October 2012 and could present a hardship on families.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.503(a) and (c)(2).

Project/Activity: San Francisco Housing Authority in San Francisco, California, requested a waiver of these regulations so that it could allow payment standards of 120 percent of the 2017 50th percentile fair market rents for its HUD–VASH families.

Nature of Requirement: These regulations limit the amount of exception payment standards that may be established for the public housing agency.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: December 21, 2016.

Reason Waived: Higher payment standards were warranted since the utilization of HUD–VASH vouchers was only 70 percent and the

vacancy rate in San Francisco was less than one percent.

Contact: Becky Primeaux, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Chicago Housing Authority in Chicago, Illinois, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rents (FMR) as a reasonable accommodation.

Nature of Requirement: 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the FMR for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: October 3, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: San Diego Housing Commission in San Diego, California, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rents (FMR) as a reasonable accommodation.

Nature of Requirement: 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the FMR for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: October 11, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Orange County Housing Authority in Santa Ana, California, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rents (FMR) as a reasonable accommodation.

Nature of Requirement: 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the FMR for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: November 15, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Chicago Housing Authority in Chicago, Illinois, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rents (FMR) as a reasonable accommodation.

Nature of Requirement: 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the FMR for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: November 23, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Vermont State Housing Authority in Montpelier, Vermont, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rents (FMR) as a reasonable accommodation.

Nature of Requirement: 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the FMR for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: November 23, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Housing Authority of Grays Harbor in Aberdeen, Washington, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rent (FMR) as a reasonable accommodation.

Nature of Requirement: 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the FMR for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: November 29, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Chicago Housing Authority in Chicago, Illinois, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rent (FMR) as a reasonable accommodation.

Nature of Requirement: 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the FMR for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: December 1, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: City of Des Moines Housing Services Department in Des Moines, Iowa, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rent (FMR) as a reasonable accommodation.

Nature of Requirement: 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the FMR for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: December 1, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Holden Housing Authority in Holden, Massachusetts, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rent (FMR) as a reasonable accommodation.

Nature of Requirement: 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the FMR for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: December 1, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Chicago Housing Authority in Chicago, Illinois, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rent (FMR) as a reasonable accommodation.

Nature of Requirement: 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the FMR for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: December 9, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Colorado Department of Local Affairs in Denver, Colorado, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rent (FMR) as a reasonable accommodation.

Nature of Requirement: 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the FMR for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: December 9, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Housing Authority of Skagit County in Burlington, Washington, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rent (FMR) as a reasonable accommodation.

Nature of Requirement: 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the FMR for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: December 20, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 985.101(a).

Project/Activity: The Waterloo Housing Authority (WHA) in Waterloo, Iowa, requested a waiver of 24 CFR 985.101(a) so that it could submit its Section Eight Management Assessment Program (SEMAP) certification after the deadline.

Nature of Requirement: 24 CFR 985.101(a) states a PHA must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: October 12, 2016.

Reason Waived: This waiver was granted for the WHA's fiscal year ending June 30, 2016. The waiver was approved because of circumstances beyond the PHA's control and to prevent additional administrative burdens for the PHA and field office.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 985.101(a).

Project/Activity: Allen Metropolitan Housing Authority (AMHA) in Lima, Ohio, requested a waiver of 24 CFR 985.101(a) so that it could submit its Section Eight Management Assessment Program (SEMAP) certification after the deadline.

Nature of Requirement: 24 CFR 985.101(a) states a PHA must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: October 25, 2016.

Reason Waived: This waiver was granted for the AMHA's fiscal year ending June 30, 2016. The waiver was approved because of circumstances beyond the AMHA's control and to prevent additional administrative burdens for the PHA and field office.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 985.101(a).

Project/Activity: Denham Springs Housing Authority (DSHA) in Denham Springs, LA, requested a waiver of 24 CFR 985.101(a) so that it could submit its Section Eight Management Assessment Program (SEMAP) certification after the deadline.

Nature of Requirement: 24 CFR 985.101(a) states a PHA must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: December 9, 2016.

Reason Waived: This waiver was granted for the DSHA's fiscal year ending September 30, 2016. The waiver was approved because of circumstances beyond the DSHA's control and to prevent additional administrative burdens for the PHA and field office.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 902.22 and 902.25

Project/Activity: Duson Housing Authority (LA130).

Nature of Requirement: Physical inspections are required to ensure that public housing units are decent, safe, sanitary and in good repair, as determined by an inspection conducted in accordance with HUD's Uniform Physical Condition Standards (UPCS). Baseline inspections will have all properties inspected regardless of previous PHAS designation or physical inspection scores.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: November 23, 2016.

Reason Waived: The Duson Housing Authority (HA), requested to be waived from fiscal year (FY) 2016 physical inspections and physical condition scoring of property/units for its fiscal year end (FYE) of March 31, 2016. The HA is located within the Lafayette Parish, impacted by the 2016 Louisiana severe flooding, and was Presidentially-Declared Federal Disaster Area.

Pursuant to 24 CFR 5.110, the HA was granted a waiver for good cause of its 2016 physical inspection and its 2016 PHAS physical condition indicator score for the FYE March 31, 2016. The HA was advised that March 31, 2017, would be the baseline year to determine its eligibility for Small PHA Deregulation and that a new inspection would be required upon that date.

Contact: Dee Ann R. Walker, Acting Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410, telephone (202) 475–7908.

• *Regulation:* 24 CFR 902.22 and 902.25.

Project/Activity: Housing Authority of the Town of Erath (LA047).

Nature of Requirement: Physical inspections are required to ensure that public housing units are decent, safe, sanitary and in good repair, as determined by an inspection conducted in accordance with HUD's Uniform Physical Condition Standards (UPCS). Baseline inspections will have all properties inspected regardless of previous PHAS designation or physical inspection scores.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: December 16, 2016.

Reason Waived: The Housing Authority of the Town of Erath (HA), requested to be waived from fiscal year (FY) 2016 physical inspections and physical condition scoring of property/units for its fiscal year end (FYE) of December 31, 2016. The HA is located within the Vermilion Parish, impacted by the 2016 Louisiana severe flooding, and was Presidentially-Declared Federal Disaster Area. Pursuant to 24 CFR 5.110, the HA was granted a waiver for good cause of its 2016 physical inspection and its 2016 PHAS physical condition indicator score for the FYE December 31, 2016. The HA was advised that December 31, 2017, would be the baseline year to determine its eligibility for Small PHA Deregulation and that a new inspection would be required upon that date.

Contact: Dee Ann R. Walker, Acting Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410, telephone (202) 475–7908.

• *Regulation:* 24 CFR 902.22 and 902.25.

Project/Activity: Housing Authority of the City of Eunice (LA025).

Nature of Requirement: Physical inspections are required to ensure that public housing units are decent, safe, sanitary and in good repair, as determined by an inspection conducted in accordance with HUD's Uniform Physical Condition Standards (UPCS). Baseline inspections will have all properties inspected regardless of previous PHAS designation or physical inspection scores.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: December 16, 2016.

Reason Waived: The Housing Authority of the City of Eunice (HA), requested to be waived from fiscal year (FY) 2016 physical inspections and physical condition scoring of property/units for its fiscal year end (FYE) of September 30, 2016. The HA is located within the St. Landry Parish, impacted by the 2016 Louisiana severe flooding, and was Presidentially-Declared a Federal Disaster Area. Pursuant to 24 CFR 5.110, the HA was granted a waiver for good cause of its 2016 physical inspection and its 2016 PHAS physical condition indicator score for the FYE September 30, 2016. The HA was advised that September 30, 2017, would be the baseline year to determine its eligibility for Small PHA Deregulation and that a new inspection would be required upon that date.

Contact: Dee Ann R. Walker, Acting Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410, telephone (202) 475–7908.

[FR Doc. 2017–06198 Filed 3–28–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVB0I000.L71220000.EX0000. LVTFF1486020 MO# 4500101184]

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Deep South Expansion Project, Lander and Eureka Counties, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) Mount Lewis Field Office, Battle Mountain, Nevada, intends to prepare an Environmental Impact Statement (EIS) to analyze the potential impacts of approving the proposed Deep South Expansion Project in Lander and Eureka Counties, Nevada. This notice announces the beginning of the scoping process to solicit public comments and identify issues and alternatives; and serves to initiate public consultation, as required, under the National Historic Preservation Act (NHPA).

DATES: This notice initiates the public scoping process for the EIS. Comments on issues may be submitted in writing until May 1, 2017. The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through local media, newspapers and the BLM Web site at: *http://www.blm.gov/nv/st/en/fo/battle_mountain_field.html.* In order to be considered during the preparation of the Draft EIS, all comments must be received or postmarked prior to the close of the 30-day scoping period or 15 days after the last public meeting, whichever is later.

Comments received after the close of the 30-day scoping period will be considered as long as they are received or postmarked prior to 15 days after the last public meeting. The BLM will provide additional opportunities for public participation upon publication of the Draft EIS.

ADDRESSES: You may submit comments related to the proposed Deep South Expansion Project by any of the following methods:

• *Email*: BLM_NV_BMDO_MLFO_DeepSouthEIS@blm.gov

• *Fax:* 775–635–4034

• *Mail:* 50 Bastian Road, Battle Mountain, NV 89820

FOR FURTHER INFORMATION CONTACT: Andrea Dolbear, Project Manager, telephone: 775–635–4000; and at the addresses or fax number above.. Contact Mrs. Dolbear if you wish to add your name to our mailing list. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 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: Barrick Cortez, Inc. is proposing modifications to the existing Deep South Project Plan of Operations (Project) which is located in Eureka and Lander Counties, south of Crescent Valley, Nevada. The proposed modifications include the following activities:

- Deepen the existing Crossroads Pit (Pipeline Complex) by 200 feet to 3,200 feet above mean sea level (amsl) and reconfigure the backfill. Three backfill scenarios are being evaluated at this time;
- Add Stage 11 to the existing Pipeline Pit;
- Expand the existing Gold Acres Pit Complex and expand the waste rock facility (WRF);
- Expand the existing Cortez Hills underground gold mine by increasing the depth of mining from the currently authorized floor of 3,800 feet amsl to 2,500 feet amsl;
- Expand the Pediment portion of the Cortez Hills Pit and shift the Plan of Operations boundary to the east by about 800 feet;
- Partially backfill the existing Cortez Hills Pit;
- Construct an additional water treatment plant in the Cortez Hills Complex;
- Expand the existing Cortez Pit and WRF;
- The maximum dewatering rate will remain below the authorized rate of 36,100 gpm;
- Add Rapid Infiltration Basins (RIBs), laydown areas and surface pipelines on fee land outside of the Plan of Operations boundary in Crescent Valley;
- Construct additional RIBs and surface pipelines, laydown areas and a booster station in Grass Valley and Pine Valley;
- Construct, if necessary, a water reservoir and pipelines for dewatering water management at Rocky Pass, construct a water line from the reservoir to the Dean Ranch, and construct a bypass road for public access; and
- Various additions/revisions to Facilities and Ancillary Disturbance:
  - Expand the plan boundary to capture proposed facilities;
  - Increase off site ore haulage from 1.2 to 2.5 million tons/year;
  - Modify the surface mining rate to allow up to 600,000 tons per day;
  - Expand the existing Pipeline oxide ore stockpile;
  - Add ore stockpiles;
  - Add ancillary disturbance around existing and proposed facilities;
  - Power lines, pipelines, buildings, communication sites, haul and access roads; and
  - Change the Grass Valley productions wells to injection wells and add monitor wells.

The BLM Mt. Lewis Field Office administers 54,825 acres of public lands within the plan boundary, and Cortez controls 3,268 acres of private lands. The BLM previously authorized Cortez to disturb 16,700 acres within the plan boundary. The Plan of Operations amendment (APO) would include increasing the existing approved plan boundary by 4,279 acres; from 58,093 acres to 62,372 acres. The proposed modifications will result in approximately 3,798 acres of new disturbance inside of the new proposed plan boundary. Barrick Cortez, Inc. would continue to employ the existing workforce of employees for the construction, operation, reclamation, and closure of the proposed project amendment, which is anticipated to extend the mine life by approximately another 12 years as a result of the proposed activities.

The BLM is seeking input regarding issues that may be analyzed in the EIS. The public scoping meeting provides the public and other interested agencies and organizations an opportunity to learn about the Project and to help identify issues, provide input, and propose alternatives to be addressed in the EIS before the BLM begins drafting it. Early public involvement is crucial to identify various issues that may be addressed through the process. Some of the potential anticipated issues and concerns may include:

- Water resources
- Air quality
- Vegetation resources (including noxious weeds)
- Wildlife (including migratory birds and special status species such as Greater sage grouse)
- Grazing management
- Land use and access
- Aesthetics (noise and visual)
- Cultural resources
- Geological resources (including minerals and soils)
- Recreation
- Social and economic values
- hazardous materials
- Native American cultural concerns
- Closure methodology

Public involvement is an important part of the NEPA process. The level of public involvement varies with the different types of NEPA compliance and decision-making. Public involvement begins early in the NEPA process, with scoping, and continues throughout the preparation of the analysis and the decision. The CEQ Regulations require that agencies ''make diligent efforts to involve the public in preparing and implementing their NEPA procedures'' (40 CFR 1506.6(a)). There are a wide variety of ways to engage the public in the NEPA process. The purpose of public scoping is to ensure that all interested and affected parties are aware of the proposed action.

The BLM will use and coordinate the NEPA scoping process to help fulfill the public involvement process under the NHPA as provided in 42 CFR 800.2(d)(3). The information about historic and cultural resources within the area potentially affected by the proposed project will assist the BLM in identifying and evaluating impacts to such resources in the context of both NEPA and the NHPA.

The BLM will consult with Native American tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration.

Federal, State, and local agencies, along with tribes and other stakeholders that may be interested in or affected by the proposed project that the BLM is evaluating, are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the EIS as a cooperating agency. Comments and materials we receive, as well as supporting documentation we use in preparing the EIS, will be available for public inspection during normal business hours at the Mount Lewis Field Office (see **ADDRESSES** section, above).

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may request in your comment that your personal identifying information be withheld from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1501.7

Jon D. Sherve,

Field Manager, Mount Lewis Field Office.

[FR Doc. 2017–06190 Filed 3–28–17; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–23018; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before February 25, 2017, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by April 13, 2017.

ADDRESSES: Comments may be sent via U.S. Postal Service to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before February 25, 2017. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State Historic Preservation Officers:

COLORADO

Park County

Como Cemetery, (Park County, Colorado Historic Cemeteries), Cty. Rd. 33, Como vicinity, MP100000842

DELAWARE

New Castle County

Holly Oak, 1503 Ridge Rd., Claymont vicinity, SG100000843

Jackson—Wilson House, 12 Red Oak Rd., Wilmington, SG100000844

DISTRICT OF COLUMBIA

District of Columbia

Holzbeierlein Bakery, 1815–1827 Wiltberger St. NW., Washington, SG100000845

Virginia Interlocking Control Tower, SE. corner of 2nd St. SW. & Virginia Ave. SW., Washington, SG100000846

ILLINOIS

Rock Island County

Garfield Elementary School, 1518 25th Ave., Moline, SG100000848

MASSACHUSETTS

Essex County

Winter Street School, 165 Winter St., Haverhill, SG100000849

Norfolk County

Rockwood Road Historic District, Roughly Rockwood Rd. from MBTA tracks to Boardman St., Norfolk, SG100000850

MISSOURI

St. Charles County

Commons Neighborhood Historic District, Roughly bounded by Benton Ave., Clark, 5th, Randolph, Kingshighway, 7th & 6th Sts., St. Charles, SG100000851

NEW JERSEY

Bergen County

Woman's Club of Rutherford Clubhouse, 201 Fairview Ave., Rutherford Borough, SG100000852

PENNSYLVANIA

Bucks County

Highland Park Camp Meeting, 415 Highland Park Rd., Sellersville, SG100000854

Delaware County

Llanerch Public School, (Educational Resources of Pennsylvania MPS), 5 Llandillo Rd., Haverford Township, MP100000855

Marcus Hook Plank House, 221 Market St., Marcus Hook, SG100000856

Philadelphia County

Kahn, Harry C. and Son, Warehouse, 3101–27 W. Glenwood Ave., Philadelphia, SG100000857

TENNESSEE

Putnam County

Science Building, The, 1 William L. Jones Dr., Cookeville, SG100000858

Shelby County

Rock of Ages Christian Methodist Episcopal Church, 478 Scott St., Memphis, SG100000859

TEXAS

Bastrop County

Lower Elgin Road Bridge at Wilbarger Creek, (Road Infrastructure of Texas, 1866–1965 MPS), Cty. Rd. 55 at Wilbarger Cr., Utley vicinity, MP100000860

Dallas County

Garland Downtown Historic District, Roughly bounded by W. State St., Santa Fe rail line, W. Ave. A & Glenbrook Dr., Garland, SG100000861

Tarrant County

Woman's Club of Fort Worth, The, N. side, 1300 blk. Pennsylvania Ave., Fort Worth, SG100000862

WISCONSIN

Winnebago County

Washington Avenue Neoclassical Historic District, Generally bounded by the 100 & 200 blks. of Washington Ave., Oshkosh, SG100000863

An additional documentation has been received for the following resource(s):

CALIFORNIA

Riverside County

March Field Historic District, Eschscholtzia Ave., March Air Force Base, Riverside vicinity, AD94001420

OHIO

Franklin County

American Insurance Union Citadel (Palace Theatre Amendment), 34 W. Broad St., Columbus, AD75001398

Authority: 60.13 of 36 CFR part 60.

Dated: March 1, 2017.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

[FR Doc. 2017–06153 Filed 3–28–17; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–571–572 and 731–TA–1347–1348 (Preliminary)]

Biodiesel From Argentina and Indonesia: Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigation Nos. 701–TA–571–572 and 731–TA–1347–1348

(Preliminary) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of biodiesel from Argentina and Indonesia, provided for in subheadings 3826.00.10 and 3826.00.30 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Government of Argentina and Indonesia. Unless the Department of Commerce extends the time for initiation, the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by May 8, 2017. The Commission's views must be transmitted to Commerce within five business days thereafter, or by May 15, 2017.

DATES: *Effective Date:* March 23, 2017.

FOR FURTHER INFORMATION CONTACT: Nathanael N. Comly ((202) 205–3174), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), in response to a petition filed on March 23, 2017, by National Biodiesel Board Fair Trade Coalition (Washington, DC), and its individual members.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register.** Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register.** A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 9:30 a.m. on Thursday, April 13, 2017, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the conference should be emailed to *William.bishop@usitc.gov* and *Sharon.bellamy@usitc.gov* (DO NOT FILE ON EDIS) on or before April 11, 2017. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before April 18, 2017, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's Web site at *https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's rules with respect to electronic filing.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (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.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this/these investigation(s) must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that any information that it submits to the Commission during this/these investigation(s) may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of these or related investigations or reviews, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: March 23, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–06151 Filed 3–28–17; 8:45 am]

BILLING CODE 7020–02–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting; National Science Board

The National Science Board's Executive Committee, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n-5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of the scheduling of a teleconference on short notice for the transaction of National Science Board business, as follows:

DATE AND TIME: March 30, 2017 from 3:00–4:00 p.m. EDT.

National Science Board Executive Committee members voted that it is necessary to agency business to hold this meeting on short notice.

SUBJECT MATTER: (1) Committee Chair's opening remarks; (2) Discussion of future fiscal year planning.

STATUS: Closed.

This meeting will be held by teleconference at the National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Please refer to the National Science Board Web site *www.nsf.gov/nsb* for additional information. Meeting information and updates (time, place, subject or status of meeting) may be found at *http://www.nsf.gov/nsb/meetings/notices.jsp.* Point of contact for this meeting is: Brad Gutierrez, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–7000.

Chris Blair,

Executive Assistant to the NSB Office.

[FR Doc. 2017–06328 Filed 3–27–17; 4:15 pm]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0077]

Recommended Practice for Dealing With Outlying Observations

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; withdrawal.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is withdrawing Regulatory Guide (RG) 5.36, ''Recommended Practice for Dealing with Outlying Observations.'' This RG is being withdrawn because guidance for licensees to develop written procedures describing statistical analyses of nuclear material accounting data, specifically when dealing with outlying observations in samples and for testing their statistical significance, is no longer needed.

DATES: The effective date of the withdrawal of RG 5.36 is March 29, 2017.

ADDRESSES: Please refer to Docket ID NRC–2017–0077 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document, using the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0077. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Document collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. The basis for the withdrawal of this guide is in ADAMS under Accession No. ML16225A444.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

FOR FURTHER INFORMATION CONTACT: Glenn Tuttle, Office of Nuclear Materials Safety and Safeguards, telephone: 301–415–7230; email: *Glenn.Tuttle@nrc.gov;* and Harriet Karagiannis, Office of Nuclear Regulatory Research, telephone: 301–415–2493; email: *Harriet.Karagiannis@nrc.gov.* Both are staff members of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: The NRC staff issued RG 5.36 in June 1974 to provide guidance on meeting the requirements related to material control and accounting (MC&A) statistical control procedures in section 70.22(b) of title 10 of the *Code of Federal Regulations* (10 CFR), ''Contents of applications.'' This requirement, regarding submittal of the licensees description of its material control and accounting (MC&A) procedures, did not specifically require the methodology that the guidance in RG 5.36 addressed and no longer exists in 10 CFR 70.22(b). The MC&A requirements have all been moved to 10 CFR part 74, and no specific requirements exist for performing outlier testing.

Regulatory guide 5.36 endorsed American Society for Testing and Materials (ASTM) Standard E178–74, ''Recommended Practice for Dealing with Outlying Observations,'' with qualifications. ASTM E178–74 provided a common method used in testing for outlying observations. However, the NRC is not aware that any licensee ever used this particular RG or the ASTM standard it endorsed since it is not required by NRC regulations. Instructions on performing such an analysis, if a licensee chose to test their MC&A data for outliers, can be found in NUREG/CR–4604 (PNL–5849), ''Statistical Methods for Nuclear Material Management'' (ADAMS Accession No. ML103430339). NUREG/CR–4604 was developed to be a comprehensive guidance document on statistical methods that licensees may use in evaluating MC&A data.

Withdrawal of an RG means that the guide no longer provides useful information or has been superseded by other guidance, technological innovations, congressional actions, or other events. The NRC is withdrawing RG 5.36 because it is no longer needed. The withdrawal of RG 5.36 does not alter any prior or existing NRC licensing approvals or the acceptability of licensee commitments to RG 5.36. Although RG 5.36 is withdrawn, current licensees may continue to use it, and withdrawal does not affect any existing licenses or agreements.

However, by withdrawing RG 5.36, the NRC will no longer specifically approve its use in future requests or applications for NRC licensing actions.

Dated at Rockville, Maryland, this 23rd day of March 2017.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2017–06177 Filed 3–28–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0041]

Preparation of Environmental Reports for Nuclear Power Stations

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; extension of comment period.

SUMMARY: On February 13, 2017, the U.S. Nuclear Regulatory Commission (NRC) issued for public comment draft regulatory guide (DG) DG–4026, ''Preparation of Environmental Reports for Nuclear Power Stations,'' for a 60-day public comment period. However, the NRC staff is extending the public comment period from April 14, 2017 to May 31, 2017, based upon a letter from the Nuclear Energy Institute (NEI) that requested additional time in order to perform a comprehensive review of the DG and to consolidate industry comments. This DG provides guidance to applicants for format and content of environmental reports (ERs) that are submitted as part of an applicant for a permit, license, or other authorization to site, construct, and/or operate a new nuclear power plant.

DATES: The due date of comments requested in the document published on February 13, 2017 (82 FR 10502), is extended. Comments should be filed no later than May 31, 2017. Comments received after this date will be considered, if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specified subject):

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0041. 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.

• *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: OWFN–12H–08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jennifer Davis, Office of New Reactors, telephone: 301–415–3835, email: *Jennifer.Davis@nrc.gov;* and Edward O'Donnell, Office of Nuclear Regulatory Research, telephone: 301–415–3317 email: *Edward.ODonnell@nrc.gov.* Both are staff members of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0041 when contacting the NRC about the availability of information regarding this action. You may obtain publically-available information related to this action, by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0041.

• *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 DG is electronically available in ADAMS under Accession No. ML16124A200.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2017–0041 in your comment submission.

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

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

II. Discussion

On February 13, 2017, the U.S. Nuclear Regulatory Commission (NRC) solicited comments on DG–4026. The public comment period was originally scheduled to close on April 14, 2017; however, due to the NEI's request, the NRC has decided to extend the public comment period to allow more time for members of the public to develop and submit their comments.

Dated at Rockville, Maryland, this 23rd day of March, 2017.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2017–06128 Filed 3–28–17; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Sunshine Act; Notice of Closed Meeting

Notice is hereby given that the Railroad Retirement Board will hold a closed meeting on April 20, 2017, beginning at 9:00 a.m. at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

Closed meeting notice:

(1) General Counsel Position

The person to contact for more information is Martha P. Rico, Secretary to the Board, Phone No. 312–751–4920.

Dated: March 27, 2017.

Martha P. Rico,

Secretary to the Board.

[FR Doc. 2017–06299 Filed 3–27–17; 4:15 pm]

BILLING CODE 7905–01–P

RAILROAD RETIREMENT BOARD

Sunshine Act; Notice of Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on April 19, 2017, 10:00 a.m. at the Board's meeting room on the 8th

floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

Portion open to the public:

(1) Executive Committee Reports

The person to contact for more information is Martha P. Rico, Secretary to the Board, Phone No. 312–751–4920.

Dated: March 27, 2017.

Martha P. Rico,

Secretary to the Board.

[FR Doc. 2017–06285 Filed 3–27–17; 4:15 pm]

BILLING CODE 7905–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

Summary: In accordance with the Paperwork Reduction Act of 1995, the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB). Our ICR describes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collections of information to determine (1) the practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to the RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if the RRB and OIRA receive them within 30 days of the publication date.

1. Title and purpose of information collection: Application and Claim for Unemployment Benefits and Employment Service; OMB 3220–0022.

Section 2 of the Railroad Unemployment Insurance Act (RUIA), provides unemployment benefits for qualified railroad employees. These benefits are generally payable for each day of unemployment in excess of four during a registration period (normally a period of 14 days).

Section 12 of the RUIA provides that the RRB establish, maintain and operate free employment facilities directed toward the reemployment of railroad employees. The procedures for applying for the unemployment benefits and employment service and for registering and claiming the benefits are prescribed in 20 CFR 325. 20 CFR 321 provides for applying and filing claims for unemployment benefits electronically.

The RRB utilizes the following forms to collect the information necessary to pay unemployment benefits. Form UI–1 (or its Internet equivalent, Form UI–1 (Internet)), *Application for Unemployment Benefits and Employment Service,* is completed by a claimant for unemployment benefits once in a benefit year, at the time of first registration. Completion of Form UI–1 or UI–1 (Internet) also registers an unemployment claimant for the RRB's employment service.

The RRB also utilizes Form UI–3 (or its Internet equivalent Form UI–3 (Internet)), *Claim for Unemployment Benefits,* for use in claiming unemployment benefits for days of unemployment in a particular registration period, normally a period of 14 days.

Completion of Forms UI–1, UI–1 (Internet), UI–3, and UI–3 (Internet) is required to obtain or retain benefits. The number of responses required of each claimant varies, depending on their period of unemployment.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (82 FR 5614 on January 18, 2017) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Application and Claim for Unemployment Benefits and Employment Service.

OMB Control Number: 3220–0022.

Forms submitted: UI–1, UI–1 (Internet), UI–3, UI–3 (Internet).

Type of request: Extension without change of a currently approved collection.

Affected public: Individuals or Households.

Abstract: Under Section 2 of the Railroad Unemployment Insurance Act, unemployment benefits are provided for qualified railroad employees. The collection obtains the information needed to determine the eligibility to and amount of such benefits for railroad employees.

Changes proposed: The RRB proposes no changes to the forms in the collection.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
UI–1	8,003	10	1,334
UI–1 (Internet)	5,542	10	924
UI–3	37,584	6	3,758
UI–3 (Internet)	45,011	6	4,501
Total	96,140	.....	10,517

2. Title and Purpose of information collection: Public Service Pension Questionnaires; OMB 3220–0136.

Public Law 95–216 amended the Social Security Act of 1977 by providing, in part, that spouse or survivor benefits may be reduced when the beneficiary is in receipt of a pension based on employment with a Federal, State, or local governmental unit. Initially, the reduction was equal to the full amount of the government pension. Public Law 98–21 changed the reduction to two-thirds of the amount of the government pension.

Public Law 108–203 amended the Social Security Act by changing the requirement for exemption to a public service offset, so that Federal Insurance Contributions Act (FICA) taxes are deducted from the public service wages for the last 60 months of public service employment, rather than just the last day of public service employment.

Sections 4(a)(1) and 4(f)(1) of the Railroad Retirement Act (RRA) provides that a spouse or survivor annuity should be equal in amount to what the annuitant would receive if entitled to a like benefit from the Social Security Administration. Therefore, the public service pension (PSP) provisions apply to RRA annuities. RRB regulations pertaining to the collection of evidence relating to public service pensions or worker's compensation paid to spouse

or survivor applicants or annuitants are prescribed in 20 CFR 219.64c.

The RRB utilizes Form G–208, Public Service Pension Questionnaire, and Form G–212, Public Service Monitoring Questionnaire, to obtain information used to determine whether an annuity reduction is in order.

Completion of the forms is voluntary. However, failure to complete the forms could result in the nonpayment of benefits. One response is requested of each respondent.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (82 FR 5614 on January 18, 2017) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Public Service Pension Questionnaires.

OMB Control Number: 3220–0136.

Forms submitted: G–208 and G–212.

Type of request: Extension without change of a currently approved collection.

Affected public: Individuals or Households.

Abstract: A spouse or survivor annuity under the Railroad Retirement Act may be subjected to a reduction for a public service pension. The questionnaires obtain information needed to determine if the reduction applies and the amount of such reduction.

Changes proposed: The RRB proposes no changes to the forms in the collection.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–208	70	16	19.0
G–212	1,100	15	275.0
Total	1,170		294.0

3. Title and purpose of information collection: Report of Medicaid State Office on Beneficiary's Buy-In Status; OMB 3220–0185.

Under Section 7(d) of the Railroad Retirement Act, the RRB administers the Medicare program for persons covered by the railroad retirement system. Under Section 1843 of the Social Security Act, states may enter into ''buy-in agreements'' with the Secretary of Health and Human Services for the purpose of enrolling certain groups of low-income individuals under the Medicare medical insurance (Part B) program and paying the premiums for their insurance coverage. Generally, these individuals are categorically needy under Medicaid and meet the eligibility requirements for Medicare Part B. States can also include in their buy-in agreements, individuals who are eligible for medical assistance only. The RRB utilizes Form RL–380–F, *Report of Medicaid State Office on Beneficiary's Buy-In Status,* to obtain information needed to determine if certain railroad beneficiaries are entitled to receive Supplementary Medical Insurance program coverage under a state buy-in agreement in the states in which they reside.

Completion of Form RL–380–F is voluntary. One response is received from each respondent.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (82 FR 5614 on January 18, 2017) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Report of Medicaid State Office on Beneficiary's Buy-In Status.

OMB Control Number: 3220–0185.

Forms submitted: RL–380–F.

Type of request: Extension without change of a currently approved collection.

Affected public: State, Local, and Tribal Governments.

Abstract: Under the Railroad Retirement Act, the Railroad Retirement Board administers the Medicare program for persons covered by the railroad retirement system. The collection obtains the information needed to determine if certain railroad beneficiaries are entitled to receive Supplemental Medical Insurance program coverage under a state buy-in agreement in states in which they reside.

Changes proposed: The RRB proposes no changes to Form RL–380–F.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
RL–380–F	600	10	100

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Dana Hickman at (312) 751–4981 or *Dana.Hickman@RRB.GOV.*

Comments regarding the information collection should be addressed to Brian Foster, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–1275 or *Brian.Foster@rrb.gov* and to the OMB Desk Officer for the RRB, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

Martha P. Rico,

Secretary to the Board.

[FR Doc. 2017–06146 Filed 3–28–17; 8:45 am]

BILLING CODE 7905–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15057 and #15058]

Kansas Disaster Number KS–00099

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Kansas (FEMA–4304–DR), dated 02/24/2017.

Incident: Severe Winter Storm.

Incident Period: 01/13/2017 through 01/16/2017.

DATES: *Effective Date:* 03/23/2017.

Physical Loan Application Deadline Date: 04/25/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 11/27/2017.

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: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Kansas, dated 02/24/2017, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Rice, Russell

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2017–06156 Filed 3–28–17; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15094 and #15095]

Wyoming Disaster #WY–00038

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Wyoming (FEMA–4306–DR), dated 03/21/2017.

Incident: Severe Winter Storm and Straight-line Winds.

Incident Period: 02/06/2017 through 02/07/2017.

Effective Date: 03/21/2017.

Physical Loan Application Deadline Date: 05/22/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 12/21/2017.

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 03/21/2017, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications 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: Teton

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	2.500
Non-Profit Organizations Without Credit Available Elsewhere	2.500
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15094B and for economic injury is 15095B.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2017–06154 Filed 3–28–17; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 9937]

Determination and Certification Under Section 490(b)(l)(A) of the Foreign Assistance Act Relating to the Largest Exporting and Importing Countries or Certain Precursor Chemicals

Pursuant to Section 490(b)(l)(A) of the Foreign Assistance Act or 1961, as amended. I hereby determine and certify that the top five exporting and importing countries and economies of pseudoephedrine and ephedrine (Canada, China, Denmark, Egypt, France, Germany, Greece, India, Indonesia, Singapore, Republic of Korea, Switzerland and the United Kingdom) have cooperated fully with the United States, or have taken adequate steps on their own, to achieve full compliance with the goals and objectives established by the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

This determination and certification shall be published in the **Federal Register** and copies shall be provided to the Congress together with the accompanying Memorandum of Justification.

Dated: March 6, 2017.

Thomas A. Shannon,

Under Secretary for Political Affairs.

[FR Doc. 2017–06207 Filed 3–28–17; 8:45 am]

BILLING CODE 4710–17–P

DEPARTMENT OF STATE

[Public Notice: 9938]

Imposition of Nonproliferation Measures Against Rosoboronexport, Including a Ban on U.S. Government Procurement

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: A determination has been made that a foreign person has engaged in activities that warrant the imposition of measures pursuant to Section 3 of the Iran, North Korea, and Syria Nonproliferation Act. The Act provides for penalties on foreign entities and individuals for the transfer to or acquisition from Iran since January 1, 1999; the transfer to or acquisition from Syria since January 1, 2005; or the transfer to or acquisition from North Korea since January 1, 2006, of goods, services, or technology controlled under multilateral control lists (Missile Technology Control Regime, Australia Group, Chemical Weapons Convention, Nuclear Suppliers Group, Wassenaar Arrangement) or otherwise having the potential to make a material contribution to the development of weapons of mass destruction (WMD) or cruise or ballistic missile systems. The latter category includes (a) items of the same kind as those on multilateral lists but falling below the control list parameters when it is determined that such items have the potential of making a material contribution to WMD or cruise or ballistic missile systems, (b) items on U.S. national control lists for WMD/missile reasons that are not on multilateral lists, and (c) other items with the potential of making such a material contribution when added through case-by-case decisions.

DATES: *Effective Date:* March 21, 2017.

FOR FURTHER INFORMATION CONTACT: On general issues: Pam Durham, Office of Missile, Biological, and Chemical Nonproliferation, Bureau of International Security and

Nonproliferation, Department of State, Telephone (202) 647–4930. For U.S. Government procurement ban issues: Eric Moore, Office of the Procurement Executive, Department of State, Telephone: (703) 875–4079.

SUPPLEMENTARY INFORMATION: On March 21, 2017 the U.S. Government applied the measures authorized in Section 3 of the Iran, North Korea, and Syria Nonproliferation Act (Pub. L. 109–353) against the following foreign person identified in the report submitted pursuant to Section 2(a) of the Act:

Rosoboronexport (ROE) (Russia) and any successor, sub-unit, or subsidiary thereof.

Accordingly, pursuant to Section 3 of the Act, the following measures are imposed on these persons:

1. No department or agency of the United States Government may procure or enter into any contract for the procurement of any goods, technology, or services from this foreign person, except to the extent that the Secretary of State otherwise may determine. This measure shall not apply to subcontracts at any tier with ROE and any successor, sub-unit, or subsidiary thereof made on behalf of the United States Government for goods, technology, and services for the maintenance, repair, overhaul, or sustainment of Mi-17 helicopters for the purpose of providing assistance to the security forces of Afghanistan, as well as for the purpose of combating terrorism and violent extremism globally. Moreover, the ban on U.S. government procurement from the Russian entity Rosoboronexport (ROE) and any successor, sub-unit, or subsidiary thereof shall not apply to United States Government procurement of goods, technology, and services for the purchase, maintenance, or sustainment of the Digital Electro Optical Sensor OSDCAM4060 to improve the U.S. ability to monitor and verify Russia's Open Skies Treaty compliance. Such subcontracts include the purchase of spare parts, supplies, and related services for these purposes;

2. No department or agency of the United States Government may provide any assistance to this foreign person, and this person shall not be eligible to participate in any assistance program of the United States Government, except to the extent that the Secretary of State otherwise may determine;

3. No United States Government sales to this foreign person of any item on the United States Munitions List are permitted, and all sales to this person of any defense articles, defense services, or design and construction services under the Arms Export Control Act are terminated; and

4. No new individual licenses shall be granted for the transfer to this foreign person of items the export of which is controlled under the Export Administration Act of 1979 or the Export Administration Regulations, and any existing such licenses are suspended.

These measures shall be implemented by the responsible departments and agencies of the United States Government and will remain in place for two years from the effective date, except to the extent that the Secretary of State may subsequently determine otherwise.

Ann K. Ganzer,

Acting Assistant Secretary of State for International Security and Nonproliferation.

[FR Doc. 2017–06224 Filed 3–28–17; 8:45 am]

BILLING CODE 4710–27–P

DEPARTMENT OF STATE

[Public Notice 9936]

E.O. 13224 Designation of Alsayed Murtadha Majeed Ramadhan Alawi, aka Murtadha Majeed Ramadan Al Sindi, aka Murtadha Majeed Ramadhan al-Sindi, aka Mortada Majid Al-Sanadi as a Specially Designated Global Terrorist

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the person known as Alsayed Murtadha Majeed Ramadhan Alawi, aka Murtadha Majeed Ramadan Al Sindi, aka Murtadha Majeed Ramadhan al-Sindi, aka Mortada Majid Al-Sanadi, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously, I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: February 25, 2017.

Rex W. Tillerson,

Secretary of State.

[FR Doc. 2017–06213 Filed 3–28–17; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 9935]

E.O. 13224 Designation of Ahmad Hasan Yusuf, aka Abu-Maryam, aka Sajjad Hassan Nasir Al Zubaydi as a Specially Designated Global Terrorist

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the person known as Ahmad Hasan Yusuf, aka Abu-Maryam, aka Sajjad Hassan Nasir Al Zubaydi, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously, I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: February 25, 2017.

Rex W. Tillerson,

Secretary of State.

[FR Doc. 2017–06208 Filed 3–28–17; 8:45 am]

BILLING CODE 4710–AD–P

DEPARTMENT OF STATE

[Public Notice 9933]

Notice of Public Meeting of the President's Emergency Plan for AIDS Relief (PEPFAR) Scientific Advisory Board

Summary: In accordance with the Federal Advisory Committee Act (FACA), the PEPFAR Scientific Advisory Board (hereinafter referred to as ''the Board'') will meet on Thursday,

April 13, 2017 by teleconference. The meeting will last from 12:00 p.m. until approximately 1:00 p.m. ET and is open to the public.

The meeting will be hosted by the Office of the U.S. Global AIDS Coordinator and Health Diplomacy, and led by Ambassador Deborah Birx, who leads implementation of the President's Emergency Plan for AIDS Relief (PEPFAR), and the Board Chair, Dr. Carlos del Rio.

The Board serves the Global AIDS Coordinator in a solely advisory capacity concerning scientific, implementation, and policy issues related to the global response to HIV/AIDS. These issues will be of concern as they influence the priorities and direction of PEPFAR evaluation and research, the content of national and international strategies and implementation, and the role of PEPFAR in international discourse regarding an appropriate and resourced response. Topics for the meeting will include membership term and charter renewals; updates from standing Technical Working Groups; and the proposal for a prevention cascade project.

The public may join this teleconference meeting. Admittance to the meeting will be by means of a pre-arranged clearance list. In order to be placed on the list and, if applicable, to request reasonable accommodation, please register online via the following: *https://goo.gl/forms/qjCOgGxfUh6yOkY22* no later than Monday, April 10, 2017. While the meeting is open to public attendance, the Board will determine procedures for public participation.

For further information about the meeting, please contact Dr. Ebony Coleman, Designated Federal Officer for the Board, Office of the U.S. Global AIDS Coordinator and Health Diplomacy at *ColemanEM@state.gov.*

Ebony Coleman,

Research and Science Technical Advisor, Office of the U.S. Global AIDS Coordinator and Health Diplomacy, Department of State.

[FR Doc. 2017–06155 Filed 3–28–17; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 9932]

Overseas Security Advisory Council (OSAC) Meeting Notice; Closed Meeting

The Department of State announces a meeting of the U.S. State Department-Overseas Security Advisory Council on April 18 and 19, 2017. Pursuant to Section 10(d) of the Federal Advisory Committee Act (5 U.S.C. Appendix), 5 U.S.C. 552b(c)(4), and 5 U.S.C. 552b(c)(7)(E), it has been determined that the meeting will be closed to the public. The meeting will focus on an examination of corporate security policies and procedures and will involve extensive discussion of trade secrets and proprietary commercial information that is privileged and confidential, and will discuss law enforcement investigative techniques and procedures. The agenda will include updated committee reports, a global threat overview, and other matters relating to private sector security policies and protective programs and the protection of U.S. business information overseas.

For more information, contact Marsha Thurman, Overseas Security Advisory Council, U.S. Department of State, Washington, DC 20522–2008, phone: 571–345–2214.

Stephen P. Brunette,

Executive Director, Overseas Security Advisory Council, Department of State.

[FR Doc. 2017–06200 Filed 3–28–17; 8:45 am]

BILLING CODE 4710–43–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 33 (Sub-No. 324X)]

Union Pacific Railroad Company—Abandonment Exemption—in Harris and Chambers Counties, Tex.

Union Pacific Railroad Company (UP) has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F–*Exempt Abandonments* to abandon a 2.23-mile portion of the U.S. Steel Industrial Lead between milepost 2.4 in Baytown and milepost 4.63 at the east side of Cedar Bayou, in Harris and Chambers Counties, Tex. (the Line). The Line traverses United States Postal Service Zip Codes 77520 and 77523.

UP has certified that: (1) No local or overhead traffic has moved over the Line for at least two years; (2) there is no need to reroute any traffic over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will become effective on April 28, 2017, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by April 7, 2017. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 18, 2017, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to UP's representative: Mack H. Shumate, Jr., 101 North Wacker Drive, Room 1920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void ab initio.

UP has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by April 3, 2017. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which is currently set at $1,700. *See* 49 CFR 1002.2(f)(25).

filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or interim trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by UP's filing of a notice of consummation by March 29, 2018, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *WWW.STB.GOV.*

Decided: March 24, 2017.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Raina S. Contee,

Clearance Clerk.

[FR Doc. 2017–06194 Filed 3–28–17; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–24210; FMCSA–2010–0162; FMCSA–2012–0162; FMCSA–2012–0163; FMCSA–2014–0018]

Qualification of Drivers; Exemption Applications; Diabetes

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions of 125 individuals from its prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals with ITDM to continue to operate CMVs in interstate commerce.

DATES: Each group of renewed exemptions was effective on the dates stated in the discussions below and will expire on the dates stated in the discussions below.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8 a.m. to 5:30 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to http//*www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

II. Background

On December 16, 2016, FMCSA published a notice announcing its decision to renew exemptions for 125 individuals from the insulin-treated diabetes mellitus prohibition in 49 CFR 391.41(b)(3) to operate a CMV in interstate commerce and requested comments from the public (81 FR 91242). The public comment period ended on January 17, 2017, and no comments were received.

As stated in the previous notice, FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

The physical qualification standard for drivers regarding diabetes found in 49 CFR 391.41(b)(3) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control.

III. Discussion of Comments

FMCSA received no comments in this preceding.

IV. Conclusion

Based upon its evaluation of the 125 renewal exemption applications and that no comments were received, FMCSA confirms its' decision to exempt the following drivers from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce in 49 CFR 391.41(b)(3):

As of August 6, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 10 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (77 FR 36333; 77 FR 46791):

Bruce R. Bennett (MN)
Stephen W. Best (PA)
Steven D. Hancock (IN)
Michael A. Hendrickson (OR)
James B. Hills (KS)
Charles Keegan, Jr. (NJ)
Londell W. Luther (MD)
Darrell L. Meadows (TX)
Allyn E. Smith (SD)
Jason R. Zeorian (NE)

The drivers were included in Docket No. FMCSA–2012–0162. Their exemptions are effective as of August 6, 2016, and will expire on August 6, 2018.

As of August 8, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 26 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (71 FR 32177; 71 FR 45097):

Scott R. Anderson (WI)
Robert R. Chase (NE)
Todd A. Dean (WV)
Dale R. Gansz (IL)
Donald W. Havourd, Sr. (CT)
Jeffrey M. King (OR)
Milton A. Klise (OH)
Jeffrey S. Knight (WA)
Edward V. Kruse (IA)
Lee P. Lembke (WI)
Dominick T. Mastroni (KS)
Ronald S. Mavilla (PA)
Derril W. Nunnally (GA)
Robert L. Pflugler, Jr. (PA)
Ronald B. Purdum (IL)
Wilbert C. Rasely, Jr. (PA)
Ron R. Rawson (AZ)
Duane C. Rieger (ND)
Gregory A. Rigg (MI)
Vernon L. Small (CO)
Walter D. Stowman (NJ)
Antonino S. Vita (NY)
Henry B. Walker-Waltz (OR)
Arthur C. Webber (PA)
Scott A. Wertz (ND)
Danny R. Wood (MO)

The drivers were included in Docket No. FMCSA–2006–24210. Their

exemptions are effective as of August 8, 2016, and will expire on August 8, 2018.

As of August 17, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 9 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (75 FR 36775; 75 FR 50797):

Gary L. Alexander (MO)
Daniel E. Bergstresser (NY)
Stephen F. Clendenin (NY)
Donald P. Dean (MI)
Pradip B. Desai (PA)
Howard M. Galton (IL)
Steve Gumienny (CA)
Brian M. Katayama (CA)
Hubert S. Paxton (KY)

The drivers were included in Docket No. FMCSA–2010–0162. Their exemptions are effective as of August 17, 2016, and will expire on August 17, 2018.

As of August 19, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 67 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (79 FR 41723; 79 FR 56105):

Charles Ackerman Jr. (NJ)
William J. Applebee (WI)
Benjamin L. Baxter (MI)
Stephen M. Berggren (MN)
Robert A. Boyle (ID)
Patrick J. Burns (MN)
Robert L. Caudill (OH)
Charles R. Cran (WI)
John W. Crook Jr. (IA)
Kevin W. Elder (NC)
Michael J. Eldridge, Sr. (IA)
Johnathon C. Ely (IN)
Kevin D. Erickson (WI)
Joby E. Foshee, IV (MS)
Lawrence H. Fox (NH)
Troy C. Frank (NE)
Robert T. Frankfurter (CO)
Dale A. Godejohn (ND)
Robert R. Gonzales (CA)
Norman D. Groves (MO)
Kenneth F. Gwaltney (IN)
Mathew R. Hale (KS)
Donald K. Hamilton (FL)
John L. Holtzclaw (MO)
Christopher H. Horn (NH)
Jared E. Hubbard (TX)
Roger C. Hulce (VT)
Kip J. Kauffman (WI)
Christopher J. Kittoe (WI)
Joshua L. Kroetch (MN)
Wesley S. Langham (IL)
Andrew K. Lofton (AL)
Salvador Lopez (AZ)
Joseph M. Macias (NM)
Robert J. Marino (NJ)
David J. McCoy (UT)
William E. Medlin (MN)
Anthony J. Miller (MN)
Carlos A. Napoles, Jr. (NJ)
Kathryn J. Nelms (KS)
Antonio C. Oliveira (PA)
Christopher P. Overton (IL)
Ronald E. Patrick (IN)
Stephen J. Pelton (PA)
Bryant S. Perry (NC)
Kenneth R. Perschon (IL)
Joseph R. Polhamus (LA)
Brian K. Rajkovich (CA)
Joseph E. Resetar (NJ)
Rodney B. Roberts (MS)
Arlan M. Roesler (WI)
Mark J. Rone (IL)
Barry J. Sanderson (MT)
John J. Steigauf (MN)
Berton W. Stroup (PA)
Ronnie P. Thomas (TN)
William L. Thompson (MN)
Juan A. Villanueva (TX)
Robert D. Watts (TX)
Cindy L. Wells (NY)
Charles W. White (IN)
Herman D. Whitehurst (AR)
Michael G. Worl (MT)
Tommy W. Wornick (TX)
Robert T. Yeftich (IN)
Alan C. Yeomans (CT)
Chad C. Yerkey (PA)

The drivers were included in Docket No. FMCSA–2014–0018. Their exemptions are effective as of August 19, 2016, and will expire on August 19, 2018.

As of August 27, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 13 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (77 FR 40941; 77 FR 51845):

Randall W. Amtower (WV)
Steven Brickey (CO)
Ronald K. Coleman (KY)
Randall L. Corrick (ND)
Raymond G. Gravesandy (NY)
John T. Green (TX)
Gregory M. Harris (TX)
Kelly M. Keller (ND)
Joseph L. Miska (MN)
Susan L. Mosel (WI)
Jacob D. Oxford (ID)
Robert D. Regavich (NJ)
Ramon I. Zamora-Ortiz (WA)

The drivers were included in Docket No. FMCSA–2012–0163. Their exemptions are effective as of August 27, 2016, and will expire on August 27, 2018.

In accordance with 49 U.S.C. 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: March 23, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–06189 Filed 3–28–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2016–0116]

Household Goods (HHG) Consumer Protection Working Group Second Public Meeting

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice.

SUMMARY: Congress mandated the establishment of the HHG Working Group in the Fixing America's Surface Transportation (FAST) Act. The group is charged with providing recommendations on how to better educate and protect HHG moving customers (consumers) during interstate HHG moves.

DATES: The second HHG Working Group meeting will be held on May 2 and 3, 2017, from 9:00 a.m. to 4:30 p.m. and May 4, 2017 from 9:00 a.m. to 12:00 p.m. at the USDOT Headquarters, 1200 New Jersey Avenue SE., Washington, DC 20590. Members of the public planning to attend should email FMCSA at the contact information listed below by April 15, 2017. Members of the Working Group and the public should arrive at 8:30 a.m. to facilitate clearance through DOT security. Copies of the agenda will be made available at *https://www.fmcsa.dot.gov/fastact/household-goods-consumer-protection-working-group.*

FOR FURTHER INFORMATION CONTACT: Kenneth Rodgers, Chief, Commercial Enforcement and Investigations Division, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. Phone (202) 366–0073; Email *Kenneth.Rodgers@dot.gov*.

SUPPLEMENTARY INFORMATION:

FAST Act

Section 5503 of the FAST Act (Pub. L. 114–94) (December 4, 2015) requires the HHG Working Group to provide recommendations to the Secretary of Transportation, through the FMCSA Administrator. The Working Group will operate in accordance with the Federal Advisory Committee Act (FACA). 5 U.S.C. App. 2.

As required by Section 5503 of the FAST Act, the Working Group will make recommendations in three areas relating to ''how to best convey to consumers relevant information with respect to the Federal laws concerning the interstate transportation of household goods by motor carrier.'' Those areas are:

1. How to condense the FMCSA ''Ready to Move ?'' tips published in April 2006 (FMCSA–ESA–03–005) into a more consumer friendly format;

2. How best to use state-of-the-art education techniques and technologies (including how to optimize use of the Internet as an educational tool); and

3. How to reduce and simplify the paperwork required of motor carriers and shippers in interstate transportation.

Section 5503 mandates that the Secretary of Transportation appoint a Working Group that is comprised of (i) individuals with expertise in consumer affairs; (ii) educators with expertise in how people learn most effectively; and (iii) representatives of the FMCSA regulated interstate HHG moving industry.

On April 20, 2016, FMCSA solicited applications and nominations of interested persons to serve on the HHG Working Group. Applications and nominations were due on or before May 20, 2016 [81 FR 23354]. The HHG Working Group met for the first time on January 4–5, 2017.

The Working Group will terminate one year after the date its recommendations are submitted to the Secretary of Transportation.

Meeting Information

Meetings will be open to the general public, except as provided under FACA. Notice of each meeting will be published in the **Federal Register** at least 15 calendar days prior to the date of the meeting.

For the May 2–4, 2017, meeting, oral comments from the public will be heard from 10:00 a.m. to 11:00 a.m. on May 4, 2017. Should all public comments be exhausted prior to the end of the specified oral comment period, the comment period will close.

Issued on: March 23, 2017.

William A. Quade,

Associate Administrator for Enforcement.

[FR Doc. 2017–06185 Filed 3–28–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0124; FMCSA–2014–0103; FMCSA–2014–0106; FMCSA–2014–0102; FMCSA–2014–0105; FMCSA–2014–0107; FMCSA–2014–1004]

Qualification of Drivers; Exemption Applications; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for 31 individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these hard of hearing and deaf individuals to continue to operate CMVs in interstate commerce.

DATES: The renewed exemptions were effective on the dates stated in the discussions below and will expire on the dates stated in the discussions below. Comments must be received on or before April 28, 2017.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2013–0124; FMCSA–2014–0103; FMCSA–2014–0106; FMCSA–2014–0102; FMCSA–2014–0105; FMCSA–2014–0107; FMCSA–2014–0104 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number(s) for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t. Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for two years if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the two-year period.

The physical qualification standard for drivers regarding hearing found in 49 CFR 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person:

> First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid

when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

49 CFR 391.41(b)(11) was adopted in 1970, with a revision in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

The 31 individuals listed in this notice have requested renewal of their exemptions from the hearing standard in 49 CFR 391.41(b)(11), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable two-year period.

II. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application. In accordance with 49 U.S.C. 31136(e) and 31315, each of the twelve applicants has satisfied the renewal conditions for obtaining an exemption from the hearing requirement (80 FR 57032; 80 FR 60747). In addition, for Commercial Driver's License (CDL) holders, the Commercial Driver's License Information System (CDLIS) and the Motor Carrier Management Information System (MCMIS) are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver's Licensing Agency (SDLA). These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce.

The 31 drivers in this notice remain in good standing with the Agency and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous two-year exemption period. FMCSA has concluded that renewing the exemptions for each of these applicants is likely to achieve a level of safety equal to that existing without the exemption. Therefore, FMCSA has decided to renew each exemption for a two-year period. In accordance with 49 U.S.C. 31136(e) and 31315, each driver has received a renewed exemption.

As of March 3, 2017, the following 7 individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in 49 CFR 391.41(b)(11), from driving CMVs in interstate commerce (80 FR 60747):

Kevin Ballard (TX)
Scott Friede (NE)
Jeremiah Hoagland (CO)
Kimothy McLoed (GA)
Victor Morales (TX)
Branden Veronie (LA)
Anthony Witcher (MI)

The drivers were included in FMCSA–2014–0106. The exemptions were effective on March 3, 2017, and will expire on March 3, 2019.

As of March 10, 2017, David Helgreson (WI) and Susan Helgreson (WI) have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in 49 CFR 391.41(b)(11), from driving CMVs in interstate commerce (80 FR 18924).

The drivers were included in FMCSA–2014–0124. The exemptions were effective on March 10, 2017, and will expire on March 10, 2019.

As of March 13, 2017, the following 5 individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirements in 49 CFR 391.41(b)(11), from driving CMVs in interstate commerce (80 FR 57029):

Thomas Bertling (OR)
John Huey Jr. (AZ)
Scott Putman (PA)
Christopher Warner (NY)
Paul Langois (OH)

The drivers were included in FMCSA–2014–0107. The exemptions were effective on March 13, 2017, and will expire on March 13, 2019.

On March 19, 2017, Jesse Shelander (TX) has satisfied the renewal conditions for obtaining an exemption from the hearing requirement in 49 CFR 391.41(b)(11), from driving in interstate commerce (80 FR 57032). The driver was included in FMCSA–2014–0103. The exemption was effective on March 19, 2017, and will expire on March 19, 2019.

As of March 29, 2017, the following 7 drivers have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in 49 CFR 391.41(b)(11), from driving in interstate commerce (80 FR 18924):

Richard Boggs (OH)
Conley Bowling (KY)
Kareem Douglas (OH)
Danny Fisk (CO)
Kenneth Frilando (NY)
Kenneth Harris (TX)
Victor Robinson (LA)

The drivers were included in FMCSA–2014–0124. The exemptions were effective on March 29, 2017, and will expire on March 29, 2019.

As of March 29, 2017, Robert Parrish (NV) and Nathaniel Godfrey (KY) have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in 49 CFR 391.41(b)(11), from driving in interstate commerce (80 FR 57032). The drivers were included in FMCSA–2014–0103. The exemptions were effective on March 29, 2017 and will expire on March 29, 2019.

As of March 29, 2017 Weston Arthurs (CA) and Floyd McClain (FL) have satisfied the hearing requirements in 49 CFR 391.41(b)(11), from driving in interstate commerce (80 FR 60741). The drivers were included in FMCSA–2014–0106. The exemptions were effective on March 29, 2017, and expire on March 29, 2019.

As of March 29, 2017, Timothy Laporte (NY) has satisfied renewal requirements for obtaining an exemption from the hearing requirement in 49 CFR 391.41(b)(11), from driving in interstate commerce (80 FR 22768). The driver was included in FMCSA–2014–0102. The exemption was effective on March 29, 2017, and will expire March 29, 2019.

As of March 29, 20017, Steven Levine (MN) and Bruce Walker (NY) have satisfied the renewal requirements for obtaining an exemption from the hearing requirement in 49 CFR 391.41(b)(11), from driving in interstate commerce (80 FR 60735). The drivers were included in FMCSA–2014–0105. The exemptions were effective on March 29, 2017, and expire on March 29, 2019.

As of March 29, 2017, Kirk Soneson (OH) has satisfied the renewal requirements for obtaining an exemption from the hearing requirement in 49 CFR 391.41(b)(11), from driving in interstate commerce (80 FR 57029). The driver was included in FMCSA–2014–0107. The exemption was effective on March 29, 2017, and will expire on March 29, 2019.

As of March 29, 2017, Brandon Lango (TX) has satisfied the renewal requirements for obtaining an exemption from the hearing requirement in 49 CFR 391.41(b)(11), from driving in interstate commerce (80 FR 60747). The driver was included in FMCSA–2014–0104. The exemption was effective on March 29, 2017, and will expire on March 29, 2019.

IV. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each driver must report any crashes or accidents as defined in 49 CFR 390.5; and (2) report all citations and convictions for disqualifying offenses under 49 CFR part 383 and 49 CFR 391 to FMCSA. In addition, the driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. The driver is prohibited from operating a motorcoach or bus with passengers in interstate commerce. The exemption does not exempt the individual from meeting the applicable CDL testing requirements. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

IV. Conclusion

Based upon its evaluation of the 32 exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the hearing requirement in 49 CFR 391.41(b)(11). In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years unless revoked earlier by FMCSA.

Issued on: March 22, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–06181 Filed 3–28–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2016–0382]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 47 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions were effective on February 15, 2017. The exemptions expire on February 15, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On January 12, 2017, FMCSA published a notice of receipt of Federal diabetes exemption applications from 47 individuals and requested comments from the public (82 FR 3845). The public comment period closed on February 13, 2017, and no comments were received.

FMCSA has evaluated the eligibility of the 47 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 47 applicants have had ITDM over a range of 1 to 41 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the January 12, 2017, **Federal Register** notice and they will not be repeated in this notice.

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Conclusion

Based upon its evaluation of the 47 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(3):

Luciano Abreu (NJ)
Louis I. Alonzo (TX)
John P. Botcher (WI)
Mark D. Breskey (IL)
Cornelius T. Brooks (AR)
Donald E. Brown (IL)
Armando Camacho Nunez (WA)
Robert P. Coutu (RI)
John J. Crance, Jr. (NY)
Frank Croce (NY)
Kevin S. Cuberson (NC)
William T. DeGarmo (OR)
David J. Dionne (NH)
Raymond J. Dionne (NH)
Steven W. Doutt (PA)
Brian J. Dunn (MA)
Jason E. Earlywine (KY)
William J. Evans (VA)
Brandon J. Fonstad (WI)
Raymond M. Garron (SC)
Jill M. Hall (ME)
Eugene C. Hamilton (NC)
Robert C. Hanna (OH)
Richard L. Hart (MI)
Rafael Hecht (IN)
Tony L. Hopper (IL)
Robert J. Hough (MD)
Curran P. Jones (AZ)
Ryan W. Koski (MI)
Forrest M. Land, Jr. (TX)
Allan M. Lewis (ME)
Jordan H. Little (NY)
Nicolas G. Lopez (TX)
Michael R. Ludowese (MN)
Brian L. Lynch (CT)
Marten L. Matuszewski (WI)
Thomas W. Mitchell, III (OH)
David M. Molnar (PA)
Anthony G. Monaghan (NY)
Jose N. Negron (NJ)
Michael J. Perfect (WA)
Lowell A. Reigel, Jr. (KY)
Jennifer L. Schroeder (WI)
Daniel M. Seguin (NH)
Darren K. Vaughan (NC)
Melvin E. Welton, Jr. (WA)
Keith A. Williams (AL)

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption is valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: March 22, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–06180 Filed 3–28–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of random drug and alcohol testing rates for 2017.

SUMMARY: This notice announces the random testing rates for employers subject to the Federal Transit Administration's (FTA) drug and alcohol rules for 2017.

DATES: *Effective Date:* January 1, 2017.

FOR FURTHER INFORMATION CONTACT: Iyon Rosario, Drug and Alcohol Program Manager for the Office of Safety and Oversight, 1200 New Jersey Avenue SE., Washington, DC 20590 (telephone: 202–366–2010 or email: *Iyon.Rosario@dot.gov.*

SUPPLEMENTARY INFORMATION: On January 1, 1995, FTA required large transit employers to begin drug and alcohol testing employees performing safety-sensitive functions and submit annual reports by March 15 of each year beginning in 1996. The annual report includes the number of employees who had a verified positive for the use of prohibited drugs, and the number of employees who tested positive for the misuse of alcohol during the reported year. Small employers commenced their FTA-required testing on January 1, 1996, and began reporting the same information as the large employers beginning March 15, 1997.

The testing rules were updated on August 1, 2001, and established a random testing rate for prohibited drugs and the misuse of alcohol. The rule initially required employers to conduct random drug tests for prohibited drug use at a rate equivalent to at least 50 percent of their total number of safety-sensitive employees and a rate of at least 25 percent for the misuse of alcohol. However, in accordance with 49 CFR 655.45 both random testing rates may be lowered based on industry reported violations over preceding consecutive calendar years. Accordingly, in 2005 the Administrator reduced the random alcohol testing rate from 25 percent to 10 percent and reduced the random drug testing rate from 50 percent to 25 percent in 2007 (*see* 72 FR 1057).

Once lowered, the random drug testing rate may be increased to 50 percent if the positive rate equals or exceeds one percent for any one year (''positive rate'' means the number of verified positive results for random drug tests conducted under 49 CFR part 655.45 plus the number of refusals of random tests, divided by the total number of random drug test results (*i.e.,* positive, negative, and refusals). Likewise, the alcohol random rate may be increased from 10 percent to 25 percent should the reported violation rate be equal to or greater than 0.5 percent, but less than 1 percent for any one year. Furthermore, the random alcohol rate will be increased to 50

percent if the confirmed violation rate is equal to or greater than 1 percent (''violation rate'' means the number of covered employees found during random tests administered under 49 CFR 655.45 to have an alcohol concentration of .04 or greater, plus the number of employees who refuse a random test required by 49 CFR 655.49, divided by the total reported number of random alcohol tests).

Pursuant to 49 CFR 655.45(b), the Administrator's decision to increase or decrease the minimum annual percentage rate for random drug and alcohol testing is based, in part, on the reported positive drug and alcohol violation rates for the entire public transportation industry. The information used for this determination is drawn from the drug and alcohol Management Information System (MIS) reports required by 49 CFR 655.72. In determining the reliability of the data, the Administrator considers the quality and completeness of the reported data, or may obtain additional information or reports from employers, and make appropriate modifications in calculating the industry's verified positive results and violation rates.

For 2017, the Administrator has determined the random drug testing rate will remain at 25 percent based on a positive rate lower than 1.0 percent for random drug test data for calendar years 2014 and 2015. The random drug rates were .87 percent for 2014 and .90 percent for 2015. Further, the Administrator has determined that the random alcohol testing rate for 2017 will remain at 10 percent because the violation rate was again lower than 0.5 percent for calendar years 2014 and 2015. The random alcohol violation rates were 0.14 percent for 2014 and 0.14 percent for 2015.

Detailed reports on the FTA drug and alcohol testing data collected from transit employers may be obtained from the FTA, Office of Safety and Oversight, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 366–2010 or at *http://transit-safety.fta.dot.gov/publications/Default.aspx.*

Issued in Washington, DC.

Matthew J. Welbes,

Executive Director.

[FR Doc. 2017–06172 Filed 3–28–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Transfer of Federally Assisted Land or Facility

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to transfer Federally assisted land or facility.

SUMMARY: Section 5334(h) of the Federal Transit Laws, as codified, 49 U.S.C. 5301, *et seq.,* permits the Administrator of the Federal Transit Administration (the ''FTA'') to authorize a recipient of FTA funds to transfer land or a facility to a public body for any public purpose with no further obligation to the Federal Government if, among other things, no Federal agency is interested in acquiring the asset for Federal use. Accordingly, FTA is issuing this Notice to advise Federal Agencies that the Wisconsin Department of Transportation intends to transfer a building to the City of Rice Lake (the ''City''). This transfer also includes a 31% interest in the real property. The building is located at 326 South Main Street, Rice Lake, Wisconsin (hereinafter the ''Building'').

DATES: *Effective Date:* Any Federal agency interested in acquiring the Facility must notify the FTA Region V Office of its interest by April 28, 2017.

ADDRESSES: Interested parties should notify the Regional Office by writing to Marisol R. Simón, Regional Administrator, Federal Transit Administration, 200 West Adams, Suite 320, Chicago, IL 60606.

FOR FURTHER INFORMATION CONTACT: Kathryn Loster, Regional Counsel, at 312–353–3869.

SUPPLEMENTARY INFORMATION:

Background

49 U.S.C. 5334(h) provides guidance on the transfer of assets no longer needed. Specifically, if a recipient of FTA assistance decides an asset acquired at least in part with federal assistance is no longer needed for the purpose for which it was acquired, the Secretary of Transportation may authorize the recipient to transfer the asset to a local governmental authority to be used for a public purpose with no further obligation to the Government. 49 U.S.C. 5334(h)(l).

Determinations

The Secretary may authorize a transfer for a public purpose other than public transportation only if the Secretary decides:

(A) The asset will remain in public use for at least 5 years after the date the asset is transferred;

(B) There is no purpose eligible for assistance under this chapter for which the asset should be used;

(C) The overall benefit of allowing the transfer is greater than the interest of the Government in liquidation and return of the financial interest of the Government in the asset, after considering fair market value and other factors; and

(D) Through an appropriate screening or survey process, that there is no interest in acquiring the asset for Government use if the asset is a facility or land.

Federal Interest in Acquiring Land or Facility

This document implements the requirements of 49 U.S.C. 5334(h)(l)(D). Accordingly, FTA hereby provides notice of the availability of the Facility further described below. Any Federal agency interested in acquiring the affected facility should promptly notify the FTA.

If no Federal agency is interested in acquiring the existing Facility, FTA will make certain that the other requirements specified in 49 U.S.C. 5334(h)(1)(A) through (C) are met before permitting the asset to be transferred.

The Building shares a 1.433-acre parcel zoned for general commercial use. It provides 159 feet of frontage along South Main Street, and has a depth of 459 feet along the south elevation. The site is bound on the south and west by Marketplace Foods, on the east by South Main Street, and on the north by an abandoned railroad line with a 9.5-foot wide right-of-way. Land along Main Street in close proximity to the Building is a mixture of single-tenant and multi-tenant commercial properties, primarily in the retail and food service sectors. The legal description is as follows: Outlots 149–1 and 149–6 being part of Outlot 149 as shown in Certified Survey Map Volume 6, Page 162 and part of railroad right-of-way as described in Deeds Volume 414, Page 736 of Outlots in the City of Rice Lake, Barron County, Wisconsin.

The Building has a total floor space of 27,130 square feet. It houses three spaces: (1) 4,839 Square feet of office space, including a meeting room break room, bathrooms and closets; (2) 4,808 square feet of shop space; and (3) 2,683 square feet of basement space, including storage and a bathroom. The Building is sited with minimal setback from the east and north property lines.

If no Federal agency is interested in acquiring the existing Facility, FTA will make certain that the other requirements

specified in 49 U.S.C. Section 5334(h)(1)(A) through (C) are met before permitting the asset to be transferred.

Marisol Simón,

Regional Administrator, FTA Region V.

[FR Doc. 2017–06169 Filed 3–28–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 14134 and 14135

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Form 14134, Application for Certificate of Subordination of Federal Tax Lien, and Form 14135, Application for Certificate of Discharge of Property from Federal Tax Lien.

DATES: Written comments should be received on or before May 30, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224. Requests for additional information or copies of the form and instructions should be directed to Carolyn N. Brown at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Carolyn.N.Brown@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for Certificate of Subordination of Federal Tax Lien and Application for Certificate of Discharge of Property from Federal Tax Lien.

OMB Number: 1545–2174.

Form Number: 14134 and 14135.

Abstract: The collection of information is required by 26 CFR 301.6325–1(b)(5) for consideration of the United States discharging property from the federal tax lien and is required by 26 CFR 301.6325–1(d)(4) for consideration that the United States subordinate its interest in property. The information is investigated by Collection personnel in order that the appropriate official may ascertain the accuracy of the application and make a determination whether to issue a discharge or subordination.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, Business or other for-profit, Not-for-profit institutions, Farms, Federal Government, State, Local, or Tribal Gov't.

Estimated Number of Respondents: 10,362.

Estimated Time per Respondent: 2 Hours, 11 minutes.

Estimated Total Annual Burden Hours: 22,665.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 21, 2017.

Laurie Brimmer,

IRS Reports Clearance Officer.

[FR Doc. 2017–06234 Filed 3–28–17; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5306A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Form 5306–A, Application for Approval of Prototype Simplified Employee Pension (SEP) or Savings Incentive Match Plan for Employees of Small Employers (SIMPLE IRA Plan).

DATES: Written comments should be received on or before May 30, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Ralph M. Terry at Internal Revenue Service, Room 6513, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 317–5864, or through the Internet at *Ralph.M.Terry@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for Approval of Prototype Simplified Employee Pension (SEP) or Savings Incentive Match Plan for Employees of Small Employers (SIMPLE IRA Plan).

OMB Number: 1545–0199.

Form Number: 5306–A.

Abstract: This form is used by banks, credit unions, insurance companies, and trade or professional associations to apply for approval of a simplified employee pension plan or a Savings Incentive Match Plan to be used by more than one employer. The data collected is used to determine if the prototype plan submitted is an approved plan.

Current Actions: Change to burden is because the organization that processes 5306–A has provided updated numbers of actual filers.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 21.

Estimated Time per Respondent: 19 hours, 22 minutes.

Estimated Total Annual Burden Hours: 406.77.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 21, 2017.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2017–05927 Filed 3–28–17; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Cognitive and Psychological Research Coordinated by Statistics of Income on Behalf of All IRS Operations Functions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Cognitive and Psychological Research Coordinated by Statistics of Income on Behalf of All IRS Operations Functions.

DATES: Written comments should be received on or before May 30, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

Requests for additional information or copies of the form and instructions should be directed to Sara Covington, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Cognitive and Psychological Research Coordinated by Statistics of Income on Behalf of All IRS Operations Functions.

OMB Number: 1545–1349.

Abstract: The proposed research will improve the quality of data collection by examining the psychological and cognitive aspects of methods and procedures such as: Interviewing processes, forms redesign, survey and tax collection technology and operating procedures (internal and external in nature).

Current Actions: We will be conducting different opinion surveys, focus group sessions, think-aloud interviews, and usability studies regarding cognitive research surrounding forms submission or IRS system/product development.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals and businesses or other for-profit organizations.

Estimated Number of Respondents: 12,000.

Estimated Time per Respondent: 1 hour, 30 minutes.

Estimated Total Annual Burden Hours: 18,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 16, 2017.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2017–05914 Filed 3–28–17; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Voluntary Service National Advisory Committee; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that the annual meeting of the Department of Veterans Affairs Voluntary Service (VAVS) National Advisory Committee (NAC) will be held April 19–21, 2017, at the Tampa Hilton Downtown, 211 North Tampa Street, Tampa Florida. On April 19, the meeting will begin at 8:00 a.m. and end at 11:30 a.m. On April 20, the meeting will begin at 8:30 a.m. and end at 5:00 p.m. On April 21, the meeting will begin at 8:30 a.m. and end at 3:45 p.m. The meeting is open to the public.

The Committee, comprised of fifty-four national voluntary organizations, advises the Secretary, through the Under Secretary for Health, on the coordination and promotion of volunteer activities and strategic partnerships within VA facilities, in the

community, and on matters related to volunteerism and charitable giving. The purposes of this meeting are: To provide for Committee review of volunteer policies and procedures; to accommodate full and open communications between organization representatives and the Voluntary Service Office and field staff; to provide educational opportunities geared towards improving volunteer programs with special emphasis on methods to recruit, retain, place, motivate, and recognize volunteers; and to provide Committee recommendations. The April 19 session will include a National Executive Committee Meeting, Health and Information Fair, and VAVS Representative and Deputy Representative training session. The April 20 business session will include welcoming remarks from local officials, and remarks by VA officials on new and ongoing VA initiatives. The recipients of the American Spirit Recruitment Awards, VAVS Award for Excellence, and the NAC male and female Volunteer of the Year awards will be recognized. Educational workshops will be held in the afternoon and will focus on General Post Funds, conducting due diligence on potential partners, makeovers and marketing VAVS, and servant leadership. On April 21, the morning business session will include subcommittee reports, the Voluntary Service Report, NAC Chair Report, and remarks by VA officials on new and ongoing VA initiatives. The educational workshops will be repeated in the afternoon. No time will be allocated at this meeting for receiving oral presentations from the public. However, the public may submit written statements for the Committee's review to Ms. Sabrina C. Clark, Designated Federal Officer, Voluntary Service Office (10B2A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, or by email at *Sabrina.Clark@va.gov.* Any member of the public wishing to attend the meeting or seeking additional information should contact Ms. Clark at (202) 461–7300.

Dated: March 23, 2017.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2017–06164 Filed 3–28–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Amended: Advisory Committee on Homeless Veterans, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2 that a meeting of the Advisory Committee on Veterans at-risk and experiencing homelessness will be held May 10 through May 12, 2017. On May 10 and May 11, the Committee will meet at the Department of Veterans Affairs, 810 Vermont Avenue Northwest, Room 530, Washington, DC, from 8:00 a.m. to 5:00 p.m. On May 12, the Committee will meet at the Department of Veterans Affairs, 810 Vermont Avenue Northwest, Room 530, Washington, DC, from 8:00 a.m. to 12:00 p.m. The meeting sessions are open to the public.

The purpose of the Committee is to provide the Secretary of Veterans Affairs with an on-going assessment of the effectiveness of the policies, organizational structures, and services of VA in assisting Veterans at-risk and experiencing homelessness. The Committee shall assemble and review information related to the needs of homeless Veterans and provide advice on the most appropriate means of providing assistance to that subset of the Veteran population. The Committee will make recommendations to the Secretary regarding such activities.

The agenda will include briefings from officials at VA and other agencies regarding services for homeless Veterans. The Committee will also receive a briefing on the annual report that was developed after the last meeting of the Advisory Committee on Homeless Veterans and will then discuss topics for its upcoming annual report and recommendations to the Secretary of Veterans Affairs.

No time will be allocated at this meeting for receiving oral presentations from the public. Interested parties should provide written comments on issues affecting Veterans at-risk and experiencing homelessness for review by the Committee to Anthony Love, Designated Federal Officer, VHA Homeless Programs Office (10NC1), Department of Veterans Affairs, 90 K Street Northeast, Washington, DC, or via email at *Anthony.Love@va.gov.*

Members of the public who wish to attend in-person should contact both Charles Selby and Timothy Underwood of the VHA Homeless Program Office by April 25, 2017, at *Charles.Selby@va.gov* and *Timothy.Underwood@va.gov,* while providing their name, professional affiliation, address, and phone number. There will also be a call-in number at 1–800–767–1750; Access Code: 79421#. A valid government issued ID is required for admission to the meeting. Attendees who require reasonable accommodation should state so in their requests.

Dated: March 24, 2017.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2017–06203 Filed 3–28–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Minority Veterans, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on Minority Veterans will be held in Albuquerque, New Mexico from April 11–13, 2017, at the below times and locations:

On April 11, from 8:45 a.m. to 3:15 p.m., at the New Mexico VA Health Care System (HCS), Building 41, Main Hospital, 4th Floor, Performance Improvement Conference Room 4A–160, 1501 San Pedro Dr. SE., Albuquerque, New Mexico; from 4:00 p.m. to 5:00 p.m., at the Albuquerque Regional Benefit Office, Dennis Chavez Federal Building, 500 Gold Avenue SW., Albuquerque, New Mexico.

On April 12, from 9:00 a.m. to 11:15 a.m., at the Santa Fe National Cemetery, 501 North Guadalupe Street, Santa Fe, NM; from 4:30 p.m. to 6:30 p.m., conducting a Town Hall Meeting at the Indian Pueblo Cultural Center, 2401 12th St. NW., Albuquerque, NM.

On April 13, from 8:45 a.m. to 4:45 p.m., at the New Mexico VA Health Care System (HCS), Building 41, Main Hospital, 4th Floor, Performance Improvement Conference Room 4A–160, 1501 San Pedro Dr. SE., Albuquerque, NM.

The purpose of the Committee is to advise the Secretary on the administration of VA benefits and services to minority Veterans, to assess the needs of minority Veterans and to evaluate whether VA compensation and pension, medical and rehabilitation services, memorial services outreach, and other programs are meeting those needs. The Committee will make recommendations to the Secretary regarding such activities subsequent to the meeting.

On the morning of April 11 from 9:00 a.m. to 11:00 a.m., the Committee will meet in open session with key staff at the New Mexico Health Care System to discuss services, benefits, delivery challenges, and successes. From 11:00 a.m. to 12:00 p.m., the Committee will

convene a closed session in order to protect patient privacy as the Committee tours the VA Health Care System. In the afternoon from 1:45 p.m. to 3:15 p.m., the Committee will reconvene as the Committee is briefed by senior Veterans Benefits Administration staff from the Albuquerque Regional Benefit Office. From 4:00 p.m. to 5:00 p.m., the Committee will convene a closed session in order to protect patient records as the Committee tours the Regional Benefit office.

On the morning of April 12 from 9:15 a.m. to 11:15 a.m., the Committee will convene in open session at the Santa Fe National Cemetery followed by a tour of the cemetery. The Committee will meet with key staff to discuss services, benefits, delivery challenges and successes. In the evening, the Committee will hold a Veterans Town Hall meeting beginning at 4:30 p.m., at the Indian Pueblo Cultural Center.

On the morning of April 13 from 8:45 a.m. to 12:00 p.m., the Committee will convene in open session at the New Mexico Health Care System to conduct an exit briefing with leadership from the New Mexico Health Care System, Albuquerque Regional Benefit Office, and Santa Fe National Cemetery. In the afternoon from 1:00 p.m. to 4:00 p.m., the Committee will work on drafting recommendations for the annual report to the Secretary.

Portions of these visits are closed to the public in accordance with 5 U.S.C. 552b(c)(6). Exemption 6 permits to Committee to close those portions of a meeting that is likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. During the closed sessions the Committee will discuss VA beneficiary and patient information in which there is a clear unwarranted invasion of the Veteran or beneficiary privacy.

Time will be allocated for receiving public comments on April 13, at 10 a.m. Public comments will be limited to three minutes each. Individuals wishing to make oral statements before the Committee will be accommodated on a first-come first serve basis. Individuals who speak are invited to submit a 1–2 page summaries of their comments at the time of the meeting for inclusion in the official record. The Committee will accept written comments from interested parties on issues outlined in the meeting agenda, as well as other issues affecting minority Veterans. Such comments should be sent to Ms. Juanita Mullen, Advisory Committee on Minority Veterans, Center for Minority Veterans (00M), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, or email at *Juanita.Mullen@va.gov*. For additional information about the meeting, please contact Ms. Juanita Mullen at (202) 461–6199.

Dated: March 23, 2017.

Jelessa M. Burney,

Federal Advisory Committee Management Office.

[FR Doc. 2017–06163 Filed 3–28–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Increase in Maximum Tuition and Fee Amounts Payable Under the Post-9/11 GI Bill

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public of the increase in the Post-9/11 GI Bill maximum tuition and fee amounts payable and the increase in the amount used to determine an individual's entitlement charge for reimbursement of a licensing, certification, or national test for the 2017–2018 academic year (August 1, 2017–July 31, 2018).

FOR FURTHER INFORMATION CONTACT: Schnell Carraway, Management and Program Analyst, Education Service (225C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, Telephone: (202) 461–9800. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: For the 2016–2017 academic year (August 1, 2016–July 31, 2017), the Post-9/11 GI Bill allowed VA to pay the actual net cost of tuition and fees not to exceed the in-state amounts for students pursuing training at public schools: $21,970.46 for students training at private and foreign schools, $12,554.55 for students training at vocational flight schools, and $10,671.35 for students training at correspondence schools. Additionally, the entitlement charge for individuals receiving reimbursement of costs to take a licensing, certification, or national test was one month (rounded to the nearest whole month) for each $1,832.96 received.

Sections 3313, 3315, and 3315A of title 38, United States Code, direct VA to increase the maximum tuition and fee payments and entitlement-charge amounts each academic year (begins August 1st) based on the most recent percentage increase determined under 38 U.S.C. 3015(h). The percentage increase determined under 38 U.S.C. 3015(h) is effective October 1st of each year. The most recent percentage increase determined under 38 U.S.C. 3015(h) was a 3.8% increase, which was effective October 1, 2016.

The maximum tuition and fee payments and entitlement-charge amounts for training pursued under the Post-9/11 GI Bill beginning after July 31, 2017, and before August 1, 2018, are listed below. VA's calculations for the 2017–2018 academic year are based on the 3.8% increase.

2017–2018 ACADEMIC YEAR

Type of school	Actual net cost of tuition and fees not to exceed
Post-9/11 GI Bill Maximum Tuition and Fee Amounts	
PUBLIC	In-State/Resident Charges.
PRIVATE/FOREIGN	$22,805.34.
VOCATIONAL FLIGHT	$13,031.61.
CORRESPONDENCE	$11,076.86.
Post 9/11 entitlement charge amount for tests	
Licensing and certification tests National Tests.	VA will charge one month entitlement (rounded to the nearest whole, non-zero, month) for each $1,902.61 received.

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. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on March 17, 2017, for publication.

Dated: March 17, 2017.

Jeffrey Martin,

Office Program Manager, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2017–06192 Filed 3–28–17; 8:45 am]

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FEDERAL REGISTER

Vol. 82 Wednesday,
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Part II

Securities and Exchange Commission

17 CFR Part 240
Securities Transaction Settlement Cycle; Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–80295; File No. S7–22–16]

RIN 3235–AL86

Securities Transaction Settlement Cycle

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (''Commission'') is adopting an amendment to the Settlement cycle Rule (Rule 15c6–1(a)) under the Securities Exchange Act of 1934 (''Exchange Act'') to shorten the standard settlement cycle for most broker-dealer transactions from three business days after the trade date (''T+3'') to two business days after the trade date (''T+2'').

DATES:

Effective Date: May 30, 2017.

Compliance Date: September 5, 2017.

FOR FURTHER INFORMATION CONTACT: Jeffrey Mooney, Assistant Director; Elizabeth Fitzgerald, Branch Chief; Susan Petersen, Special Counsel; Andrew Shanbrom, Special Counsel; Jesse Capelle, Special Counsel, Office of Market Infrastructure, Office of Clearance and Settlement; and Justin Pica, Senior Policy Advisor, Office of Market Supervision, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–7010, at 202–551–5550.

SUPPLEMENTARY INFORMATION: The Commission is amending Rule 15c6–1 of the Exchange Act under the Commission's rulemaking authority set forth in Sections 15(c)(6), 17A and 23(a) of the Exchange Act (15 U.S.C. 78o(c)(6), 78q–1, and 78w(a) respectively).

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I. Introduction

On September 28, 2016, the Commission proposed an amendment to Exchange Act Rule 15c6–1(a) to shorten the standard settlement cycle from T+3 to T+2.[1] After consideration of the comments received in response to the T+2 Proposing Release, the Commission is adopting the amendment to Rule 15c6–1(a), as proposed.[2] As discussed in greater detail below, the Commission believes that shortening the standard settlement cycle to T+2 at this time will lead to a reduction in credit, market, and liquidity risk, and as a result, a reduction in systemic risk for U.S. market participants.[3] These benefits, as discussed below, will be distributed across the financial system.

Specifically, the Commission believes that the shortened standard settlement cycle will reduce certain risks inherent in the clearance and settlement process for all clearing agencies, such as a central counterparty's (''CCP's'') [4] credit, market, and liquidity risk exposure to its members, because there will be fewer unsettled trades and a reduced time period of exposure to such trades.[5] The Commission believes that shortening the standard settlement cycle to T+2 will also result in related reductions in liquidity risks for broker-dealers that are CCP members and, by extension, introducing broker-dealers that clear their trades through CCP members. As a result of the transition to the T+2 standard settlement cycle, a CCP may require less financial resources (*i.e.,* collateral) from its members, and the CCP's members may, in turn, reduce margin charges and other fees that they may pass down to other market participants, including introducing broker-dealers, institutional investors, and retail investors, thereby reducing trading costs. In addition, the Commission believes that a shortened standard settlement cycle will enable market participants to gain quicker access to funds and securities following trade execution, which should further reduce liquidity risks and financing costs incurred by market participants. The Commission also believes that

[1] *See* Exchange Act Release No. 78962 (Sep. 28, 2016), 81 FR 69240 (Oct. 5, 2016) (''T+2 Proposing Release'').

[2] If any of the provisions of these rules, or the application thereof to any person or circumstance, is held to be invalid, such invalidity shall not affect other provisions or application of such provisions to other persons or circumstances that can be given effect without the invalid provisions or application.

[3] Credit risk refers to the risk that the credit quality of one party will deteriorate to the extent that it is unable to fulfill its obligations to its counterparty on settlement date. Market risk refers to the risk that the value of securities bought and sold will change between trade execution and settlement such that the completion of the trade would result in a financial loss. Liquidity risk describes the risk that an entity will be unable to meet financial obligations on time due to an inability to deliver funds or securities in the form required though it may possess sufficient financial resources in other forms. T+2 Proposing Release, *supra* note 1, 81 FR at 69241 n.3.

[4] As defined in Exchange Act Rule 17Ad–22(a)(2), ''CCP means a clearing agency that interposes itself between the counterparties to securities transactions, acting functionally as the buyer to every seller and the seller to every buyer.'' 17 CFR 240.17Ad–22(a)(2).

[5] Credit and liquidity risk may also be relevant to the functioning of a central securities depository (''CSD''), given that the CSD will rely on incoming payments or deliveries of securities from certain participants to make payments or deliveries to other participants.

shortening the standard settlement cycle will more closely align and harmonize the U.S. standard settlement cycle with those foreign markets that have already moved to a shorter settlement cycle. Finally, the Commission believes that shortening the standard settlement cycle will promote technological innovation and changes in market infrastructures and operations that will incentivize market participants to further pursue more operationally and technologically efficient processes, which may lead to further shortening of the standard settlement cycle.

The Commission has also considered the costs attendant to shortening the standard settlement cycle to T+2 and believes that the amendment to Rule 15c6–1(a) will yield benefits that justify the associated costs. The Commission also believes that shortening the standard settlement cycle is supported by significant changes in technology, operations, and infrastructure that have occurred in the financial markets since the Commission's adoption of Rule 15c6–1 in 1993, as well as the investments already undertaken by market participants in recent years to support a migration to a T+2 standard settlement cycle.

II. Background

A. Statutory Framework

Congress amended the Exchange Act in 1975 to, among other things, (i) direct the Commission to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities, and (ii) provide the Commission with the authority to regulate those entities critical to the clearance and settlement process.[6] At the same time, Congress provided the Commission with direct rulemaking authority over broker and dealer activity in making settlements, payments, transfers, and deliveries of securities.[7] Taken together, these provisions provide the Commission with the authority to regulate entities that are critical to the national clearance and settlement system.[8]

Congress reaffirmed its view of the importance of a strong clearance and settlement system in 2010 with the enactment of the Payment, Clearing and Settlement Supervision Act (''Clearing Supervision Act'').[9] Specifically, Congress found that the ''proper functioning of the financial markets is dependent upon safe and efficient arrangements for the clearing and settlement of payments, securities, and other financial transactions.'' [10] Under the Clearing Supervision Act, registered clearing agencies [11] providing CCP and CSD services [12] are financial market utilities (''FMUs'').[13] FMUs centralize clearance and settlement activities and enable market participants to reduce costs, increase operational efficiency, and manage risks more effectively. While an FMU can provide many risk management benefits to market participants, the concentration of clearance and settlement activity at an FMU has the potential to disrupt the securities markets if the FMU does not effectively manage the risk in its activities.[14]

B. Regulatory Framework

The Commission adopted Exchange Act Rule 15c6–1 in 1993 to establish T+3 as the standard settlement cycle for broker-dealer transactions, and in so doing, effectively shortened the prevailing settlement cycle for most securities transactions (with certain exceptions), which was generally five business days after the trade date (''T+5'').[15] At that time, the Commission cited a number of reasons for standardizing and shortening the settlement cycle, including reducing credit and market risk exposure related to unsettled trades, reducing liquidity risk among derivatives and cash markets, encouraging greater efficiency in the clearance and settlement process, and reducing systemic risk for the U.S. markets.[16]

Since the adoption of Rule 15c6–1, the financial markets have expanded and evolved significantly.[17] Over that time, the Commission has continued to focus on further mitigating and

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[6] 15 U.S.C. 78q–1(a)(2)(A); *see also* S. Rep. No. 94–75 (1975), *reprinted* in 1975 U.S.C.C.A.N. 179, 183; Securities and Exchange Commission, Study of Unsafe and Unsound Practices of Brokers and Dealers, H.R. Doc. No. 92–231 (1971); 15 U.S.C. 78q–1(a)(1)(A)–(D) (setting forth the Congressional findings for Section 17A of the Exchange Act). ''Clearance and settlement'' refers generally to the activities that occur following the execution of a trade. These post-trade processes are critical to ensuring that a buyer receives securities and a seller receives proceeds in accordance with the agreed-upon terms of the trade by settlement date.

[7] S. Rep. No. 94–75, *supra* note 6, at 111. Specifically, Section 15(c)(6) of the Exchange Act prohibits broker-dealers from engaging in or inducing securities transactions in contravention of such rules and regulations as the Commission shall prescribe as necessary or appropriate in the public interest and for the protection of investors or to perfect or remove impediments to a national system for the prompt and accurate clearance and settlement of securities transactions, with respect to the time and method of, and the form and format of documents used in connection with, making settlements of and payments for transactions in securities, making transfers and deliveries of securities, and closing accounts. 15 U.S.C. 78o(c)(6).

[8] *See* 15 U.S.C. 78q–1(b)–(c); 15 U.S.C. 78o(c).

[9] *See* 12 U.S.C. 5461–5472.

[10] 12 U.S.C. 5461(a)(1).

[11] Section 17A(b) of the Exchange Act requires any clearing agency performing the functions of a clearing agency with respect to any security (other than an exempted security) to be registered with the Commission, unless the Commission has exempted such entity from the registration requirements. 15 U.S.C. 78q–1(b)(1). The term ''clearing agency'' is defined broadly to include any person who: (1) Acts as an intermediary in making payments or deliveries or both in connection with transactions in securities; (2) provides facilities for comparison of data respecting the terms of settlement of securities transactions, to reduce the number of settlements of securities transactions, or for the allocation of securities settlement responsibilities; (3) acts as a custodian of securities in connection with a system for the central handling of securities whereby all securities of a particular class or series of any issuer deposited within the system are treated as fungible and may be transferred, loaned, or pledged by bookkeeping entry, without physical delivery of securities certificates (such as a securities depository); or (4) otherwise permits or facilitates the settlement of securities transactions or the hypothecation or lending of securities without physical delivery of securities certificates (such as a securities depository). 15 U.S.C. 78c(a)(23). A clearing agency may provide, among other things, CCP services and CSD services.

[12] As defined in Exchange Act Rule 17Ad–22(a)(3), ''central securities depository services'' means the services of a clearing agency that is a central securities depository as described in Section 3(a)(23)(A) of the Exchange Act (15 U.S.C. 78c(a)(23)(A)). 17 CFR 240.17Ad–22(a)(3).

[13] The Clearing Supervision Act defines ''financial market utility'' or ''FMU'' as any person that manages or operates a multilateral system for the purpose of transferring, clearing, or settling payments, securities, or other financial transactions among financial institutions or between financial institutions and the person. 12 U.S.C. 5462(6)(A). This definition contains a number of exclusions that include, but are not limited to, certain designated contract markets, registered futures associations, swap or security-based swap data repositories, swap execution facilities, national securities exchanges, alternative trading systems, brokers, dealers, transfer agents, investment companies, and futures commission merchants. 12 U.S.C. 5462(6)(B)(i).

[14] *See* Standards for Covered Clearing Agencies, Exchange Act Release No. 78961 (Sept. 28, 2016), 81 FR 70786, 70849 (Oct. 13, 2016) (''CCA Standards Adopting Release''); *see also* Risk Management Supervision of Designated Clearing Agencies, Joint Report to Senate Committees on Banking, Housing, and Urban Affairs and Agriculture, Nutrition, and Forestry, and the House Committees on Financial Services and Agriculture, from the Board of Governors of the Federal Reserve System, Securities and Exchange Commission, and Commodity Futures Trading Commission (July 2011), available at *https://www.federalreserve.gov/publications/other-reports/files/risk-management-supervision-report-201107.pdf*.

[15] Securities Transactions Settlement, Exchange Act Release No. 33023 (Oct. 6, 1993), 58 FR 52891, 52893 (Oct. 13, 1993) (''T+3 Adopting Release''). Rule 15c6–1 of the Exchange Act prohibits broker-dealers from effecting or entering into a contract for the purchase or sale of a security (other than an exempted security, government security, municipal security, commercial paper, bankers' acceptances, or commercial bills) that provides for payment of funds and delivery of securities later than the third business day after the date of the contract unless otherwise expressly agreed to by the parties at the time of the transaction. 17 CFR 240.15c6–1.

[16] T+3 Adopting Release, *supra* note 15, 58 FR at 52893.

[17] *See generally* Concept Release on Equity Market Structure, Exchange Act Release No. 61358 (Jan. 14, 2010), 75 FR 3594 (Jan. 21, 2010).

managing risks in the clearance and settlement process, including risks associated with the U.S. standard settlement cycle. For example, in 2004, the Commission published a concept release [18] seeking comment on, among other things, the benefits and costs of moving to a standard settlement cycle shorter than T+3, and possible methods to help the U.S. securities industry achieve straight-through processing (''STP'').[19]

The Commission's efforts to facilitate further shortening of the standard settlement cycle are consistent with its broader focus on enhancing the resilience and efficiency of the national clearance and settlement system and the role that certain FMUs, particularly CCPs and CSDs, play in concentrating and managing risk.[20] To address these risks, the Commission has used its authority under the Exchange Act, as supplemented by the authority under the Clearing Supervision Act, to promulgate rules designed to, among other things, establish enhanced risk, operational, and governance standards for FMUs registered as clearing agencies with the Commission to help ensure that FMUs under its supervision are subject to sufficiently robust regulatory standards.[21] These entities are also subject to inspections and examinations under both the Exchange Act and the Clearing Supervision Act, and the Commission also monitors these entities to assess and evaluate the risks posed.[22]

[18] Securities Transactions Settlements, Exchange Act Release No. 49405 (Mar. 11, 2004), 69 FR 12922 (Mar. 18, 2004). Specifically, the Commission sought comment on, among other things, (i) the benefits and costs of shortening the settlement cycle to a timeframe less than T+3; (ii) whether the Commission should adopt a new rule or the SROs should be required to amend their existing rules to require the completion of the confirmation/affirmation process on trade date (''T+0''); and (iii) reducing the use of physical securities.

[19] The Securities Industry Association (which in 2006 merged with The Bond Markets Association to form the Securities Industry Financial Markets Association) has described STP ''as the seamless integration of systems and processes to automate the trade process from end-to-end—trade execution, confirmation, and settlement—without manual intervention or the re-keying of data.'' Securities Industry Association, Glossary of Terms, *reprinted in part in* Kyle L. Brandon, *Prime Brokerage: Of Prime Importance to the Securities Industry* (SIA Res. Rep., Vol. VI, No. 4, New York, NY), Apr. 28, 2005, at 25–26, *http://www.sifma.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=21718&libID=5884*.

[20] *See* Clearing Agency Standards, Exchange Act Release No. 68080 (Oct. 22, 2012), 77 FR 66220 (Nov. 2, 2012) (''Clearing Agency Standards Adopting Release'').

[21] *See, e.g.,* CCA Standards Adopting Release, *supra* note 14; Clearing Agency Standards Adopting Release, *supra* note 20, 77 FR at 66221–22.

[22] CCA Standards Adopting Release, *supra* note 14, 81 FR at 70794.

C. Overview of Market Participants Affected by the Settlement Cycle

The clearance and settlement process for transactions involving securities that currently settle on a T+3 standard settlement cycle involves a number of market participants whose role and functions will be impacted significantly by a change in the standard settlement cycle.[23] As a starting point, there are a number of market participants that operate as financial market infrastructures facilitating the national clearance and settlement system, including two FMUs that provide CCP and CSD services, respectively, and three matching and electronic trade confirmation service providers (collectively ''Matching/ETC Providers'').[24] In addition, there is the diverse population of market participants that depend on the clearance and settlement services facilitated by the FMUs and Matching/ETC Providers that also will be affected by the shortened settlement cycle. These market participants include, but are not limited to, institutional and retail investors, broker-dealers, and custodians.

1. FMUs

a. CCP

A CCP eliminates bilateral risk between individual counterparties by becoming the buyer to each seller and the seller to each buyer, thereby assuming a central role in ensuring the performance of open contracts and the facilitation of the clearance and settlement of the trade. In the U.S. financial system, NSCC is the only CCP for trades involving securities that currently settle on a T+3 standard settlement cycle.[25] NSCC facilitates the management of risk among its members using a number of tools, which primarily include: (1) Novating and guaranteeing trades to assume the credit risk of the original counterparties; (2) netting to reduce NSCC's overall exposure to its counterparties; and (3) collecting clearing fund contributions from members to help ensure that NSCC has sufficient financial resources in the event that one of the counterparties defaults on its obligations.[26]

In novation, when a CCP member presents a contract to the CCP for clearing, the original contract between the buyer and seller is discharged and two new contracts are created, one between the CCP and the buyer, and the other between the CCP and the seller. The CCP thereby assumes the original parties' contractual obligations to each other. Historically, NSCC has attached its trade guaranty to its novated transactions at midnight on T+1; however, the Commission recently approved a rule change proposed by NSCC that will accelerate the NSCC trade guaranty from midnight of T+1 to

[23] This release focuses on securities that currently settle on a T+3 standard settlement cycle. The definition of the term ''security'' in Section 3(a)(10) of the Exchange Act covers, among others, stocks, corporate bonds, unit investment trusts (''UITs''), mutual funds, exchange-traded funds (''ETFs''), American depository receipts (''ADRs''), and options. 15 U.S.C. 78c(a)(10). Although current Rule 15c6–1 establishes a standard settlement timeframe of no more than T+3, in today's environment certain types of transactions routinely settle on a settlement cycle shorter than T+3, which is permissible under the rule. For example, open-end funds (*i.e.,* mutual funds) generally settle on a T+1 basis, except for certain retail funds which typically settle on T+3, and options generally settle on a settlement cycle less than T+3. Therefore, such transactions that already settle on a shorter settlement cycle will not be impacted by the amendment shortening the standard settlement cycle to T+2.

In addition, Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010), amended, among other things, the definition of ''security'' under the Exchange Act to encompass security-based swaps. The Commission granted temporary exemptive relief from compliance with certain provisions of the Exchange Act, including Rule 15c6–1, in connection with the revision of the Exchange Act definition of ''security'' to encompass security-based swaps in July 2011. *See* Order Granting Temporary Exemptions Under the Securities Exchange Act of 1934 In Connection With the Pending Revision of the Definition of ''Security'' To Encompass Security-Based Swaps, Exchange Act Release No. 64795 (July 1, 2011), 76 FR 39927 (July 7, 2011), and Order Extending Temporary Exemptions Under the Securities Exchange Act of 1934 In Connection With the Revision of the Definition of ''Security'' To Encompass Security-Based Swaps, Exchange Act Release No. 71485 (Feb. 5, 2014), 79 FR 7731 (Feb. 10, 2014). The Commission then extended the exemption for Rule 15c6–1, along with certain other exemptions, to February 5, 2018. *See* Order Extending Certain Temporary Exemptions under the Securities Exchange Act of 1934 In Connection with the Revision of the Definition of ''Security'' to Encompass Security-Based Swaps, Exchange Act Release No. 79833 (Jan. 18, 2017), 82 FR 8467 (Jan. 25, 2017).

[24] *See* Order Granting Exemption from Registration as a Clearing Agency for Global Joint Venture Matching Services-U.S., LLC, Exchange Act Release No. 44188 (Apr. 17, 2001), 66 FR 20494, 20501 (Apr. 23, 2001) (''Omgeo Order''); Order Approving Applications for an Exemption from Registration as a Clearing Agency for Bloomberg STP LLC and SS&C Techs., Inc., Exchange Act Release No. 76514 (Nov. 24, 2015), 80 FR 75388, 75413 (Dec. 1, 2015) (''Bloomberg/SS&C Order'').

[25] In addition to providing CCP services, NSCC provides a number of other non-CCP services to market participants, including, for example, services that support mutual funds, alternative investments, and insurance products.

[26] NSCC's rules provide for several categories of membership with different levels of access to NSCC's services. This release uses the term ''member'' when referring to an NSCC member that has full access to NSCC's CCP services. *See* NSCC Rules and Procedures, Rule 1 (providing definitions of the various membership categories) (''NSCC Rules and Procedures''), *www.dtcc.com/legal/rule-and-procedures*.

the point of trade comparison and validation for bilateral submissions, or to the point of trade validation for locked-in submissions.[27] Through novation and the trade guaranty, the two original trading counterparties to the transaction replace their bilateral credit, market, and liquidity risk exposure to each other with risk exposure to NSCC.

Netting is the process of automatically offsetting a member's buy orders of an individual security against its corresponding sell orders for that security, thereby allowing NSCC to reduce the number and value of the transactions that must be cleared between members to settle their trades. Through the use of NSCC's netting and accounting system, the Continuous Net Settlement System (''CNS''), NSCC accepts trades into CNS for clearing from exchanges and other trading venues.[28] It also uses CNS to net each NSCC member's trades in each security traded that day to a single receive or deliver position for such securities.[29] Throughout the day, cash debit and credit data generated by NSCC's members' activities are recorded, and at the end of the processing day, the debits and credits are netted for each security to produce one aggregate cash debit or credit for each member.[30]

To mitigate default risk, NSCC collects clearing fund deposits from its members to maintain sufficient financial resources in the event a member or members default on their obligations to NSCC.[31] NSCC's rules allow NSCC to adjust and collect additional clearing fund deposits as needed to cover the risks present while a member's trades are unsettled. Each member's required clearing fund deposit is calculated at least once daily pursuant to a formula set forth in NSCC's rules,[32] and is designed to provide sufficient funds to cover NSCC's exposure to the member.[33]

b. CSDs

A CSD is an entity that holds securities for its participants either in certificated or uncertificated (dematerialized) form so that ownership can be easily transferred through a book entry (rather than the transfer of physical certificates), as well as providing central safekeeping and other asset services. DTC serves as the CSD and securities settlement system [34] for most equity securities and a significant number of debt securities held by U.S. market participants. In its capacity as a CSD, DTC provides custody and book-entry transfer services for the vast majority of securities transactions that are cleared through NSCC. While NSCC provides final settlement instructions to its members each day, the payment for and transfer of securities ownership occurs at DTC.[35] In accordance with its rules, DTC accepts deposits of securities from its participants [36] (primarily broker-dealers and banks), credits those securities to the depositing participants' accounts, and effects book-entry transfer of those securities. The securities deposited with DTC are registered in DTC's nominee name and are held in fungible bulk for the benefit of its participants and their customers.

DTC substantially reduces the number of physical securities certificates transferred in the U.S. markets by immobilizing securities, which generally means, holding and transferring ownership of securities positions in book-entry form, with DTC's nominee reflected as the registered owner on the issuer's records, and by centralizing and automating securities settlements. DTC thereby significantly improves operational efficiencies and reduces the risks and costs associated with the processing of physical securities certificates.

In addition to a securities account at DTC, each DTC participant has a settlement account at a clearing bank (*e.g.,* custodian) to record any net funds obligation for end-of-day settlement, whether payment will be due to or from the participant. During the day, debits and credits are entered into the participant's settlement account. The debits and credits arise from DVP transfers and from other events or transactions involving the transfer of funds, such as principal and interest payments distributed to a participant or intraday settlement progress payments by a participant to DTC.[37] Debits and credits in the participant's settlement account are netted intraday to calculate, at any time, a net debit balance or net credit balance, resulting in an end-of-day settlement obligation or right to receive payment. DTC nets debit and credit balances for participants who are also members of NSCC to reduce funds transfers for settlement, and acts as settlement agent for NSCC in this process. Settlement payments between DTC and DTC's participants' settlement banks are made through the National

[27] *See* Self-Regulatory Organizations; National Securities Clearing Corporation; Order Granting Approval of Proposed Rule Change to Accelerate its Trade Guaranty, Add New Clearing Fund Components, Enhance its Intraday Risk Management, Provide for Loss Allocation of ''Off-the-Market Transactions,'' and Make Other Changes, Exchange Act Release No. 79598 (Dec. 19, 2016), 81 FR 94462 (Dec. 23, 2016). NSCC has not yet implemented these rule changes.

[28] NSCC accepts CNS-eligible securities. To be CNS-eligible, a security must be eligible for book-entry transfer on the books of DTC, and must be capable of being processed in the CNS system. For example, securities may be ineligible for CNS processing due to certain transfer restrictions (*e.g.,* 144A securities) or due to the pendency of certain corporate actions. *See* NSCC Rules and Procedures, *supra* note 26, Rules 1 (defining CNS-eligible securities) and 3 (listing CNS-eligible securities).

[29] In CNS, compared and recorded transactions in CNS-eligible securities that are scheduled to settle on a common settlement date are netted by specific security issue into one net long (*i.e.,* buy) or net short (*i.e.,* sell) position. CNS then nets those positions further with positions of the same specific security issue that remain open after their originally scheduled settlement date, which are generally referred to as ''Fail Positions.'' The result of the netting process is a single deliver or receive obligation for each NSCC member for each specific security issue in which the member has activity on a given day. *See* NSCC Rules and Procedures, *supra* note 26, Rule 11 and Procedures VII and X.

[30] *See* NSCC, Disclosures under the Principles for Financial Market Infrastructures, at 9 (Dec. 2015) (''NSCC PFMI Disclosure Framework''), *http://www.dtcc.com/legal/policy-and-compliance*.

[31] NSCC's clearing fund is comprised of cash, securities, and letters of credit posted by NSCC members to provide NSCC the necessary resources to cover member defaults. The amount and timing of contributions to the clearing fund are determined pursuant to NSCC's rules. *See* NSCC Rules and Procedures, *supra* note 26, Rules 1 and 4.

[32] *See* NSCC Rules and Procedures, *supra* note 26, Rule 4 and Procedure XV.

[33] Commission Rules 17Ad–22(b)(1) through (4) and 17Ad–22(e)(4) through (6) establish standards for NSCC, as a registered clearing agency that performs CCP services and a covered clearing agency, with respect to its policies and procedures regarding margin and its financial resources. 17 CFR 240.17Ad–22(b)(1)–(4) and (e)(4)–(6).

[34] On September 28, 2016, the Commission published a proposal to amend the definition of a covered clearing agency to add registered clearing agencies that perform the services of a securities settlement system. *See* Exchange Act Rel. No. 78962 (Sep. 28, 2016) 81 FR 70744, 70745 (Oct. 13, 2016).

[35] At the conclusion of each trading day, CNS short positions (*i.e.,* obligations to deliver) at NSCC are compared against the long positions held in the NSCC members' DTC accounts to determine security availability. If securities are available, they are transferred from the NSCC member's account at DTC to NSCC's account at DTC, to cover the NSCC member's CNS short positions. CNS long positions (*i.e.,* the right to receive securities owed to the participant) are transferred from the NSCC account at DTC to the accounts of NSCC members at DTC. On settlement date, NSCC submits instructions to DTC to deliver (*i.e.,* transfer) securities positions for each security netted though CNS for each NSCC member holding a long position in such securities. Cash obligations are settled through DTC by one net payment for each NSCC member at the end of the settlement day. *See* NSCC PFMI Disclosure Framework, *supra* note 30, at 106.

[36] DTC's rules provide for different categories of membership, including ''participants.'' This release uses the term ''participant'' when referring to a participant of DTC. *See* Rules, By-Laws, and Organizational Certificate of DTC, Rule 1 (providing definitions of various categories of membership).

[37] As noted above, a CSD operates a securities settlement system that provides for transfers of securities either free of payment or for payment. When a transfer occurs for payment, typically securities settlement systems provide ''delivery versus payment'' or ''DVP,'' whereby the delivery of the security occurs only if payment occurs. The concept of DVP is sometimes referred to as ''DVP/RVP.'' The term ''receive versus payment'' or ''RVP'' is from the perspective of the seller.

Settlement System of the Federal Reserve System.[38]

DTC also provides certain settlement services for trades by institutional investors (as discussed further in Part II.C.2 below) that are not otherwise cleared through NSCC. In such cases, institutional investors' transactions may be processed on a trade-for-trade basis through a prime broker [39] and settled on an RVP/DVP basis through DTC and the institutional customer's custodial bank.

c. Matching/ETC Providers—Exempt Clearing Agencies

Matching/ETC Providers electronically facilitate communication among a broker-dealer, an institutional investor, and the institutional investor's custodian to reach agreement on the details of a securities trade.[40] Currently, there are three entities that have obtained exemptions from registration as a clearing agency from the Commission to operate as Matching/ETC Providers.[41] The existing Matching/ETC Providers use two methods, ''Matching'' [42] and ''ETC,'' [43] to facilitate agreement on the trade details among the parties. When the parties reach agreement, it is generally referred to as an ''affirmed confirmation.''

2. Market Participants—Investors, Broker-Dealers, and Custodians

As mentioned above, a variety of market participants that depend on the clearance and settlement functions provided by the FMUs and Matching/ETC Providers will be affected by a shortened standard settlement cycle. These market participants include, but are not limited to, institutional and retail investors, broker-dealers, and custodians (*e.g.,* banks).

Institutional investors are entities such as mutual funds, pension funds, hedge funds, bank trust departments, and insurance companies. Transactions involving institutional investors are often more complex than those for and with retail investors due to the volume and size of the transactions, the entities involved in facilitating the execution and settlement of the trade, including Matching/ETC Providers and custodians, and the need to manage certain regulatory or business obligations.[44]

Trades involving retail investors are typically smaller in size than institutional trades, and the settlement of retail investor trades generally occurs directly with the investor's or their intermediary's broker-dealer and does not involve a separate custodian bank. Accordingly, retail investors do not rely upon the involvement of a Matching/ETC Provider to facilitate the settlement of their transactions.

To clear and settle securities transactions directly through a registered clearing agency, the rules of the clearing agencies provide that a broker-dealer or other type of market participant must become a direct member of that clearing agency; such broker-dealers are generally referred to as ''clearing broker-dealers.'' [45] Clearing broker-dealers must comply with the rules of the clearing agency, including rules relating to operational and financial requirements, such as NSCC's clearing fund deposits mentioned above. In contrast, broker-dealers that submit transactions to a clearing agency through a clearing broker-dealer are generally referred to as ''introducing broker-dealers.'' In general, broker-dealers executing trades on a registered securities exchange are required by the exchange's rules (as a self-regulatory organization (''SRO'')) to clear those transactions through a registered clearing agency.[46] Broker-dealers executing trades otherwise than on an exchange (*e.g.,* on an internalized basis) may clear and settle such trades through a clearing agency, may choose to settle those trades through mechanisms internal to that broker-dealer, or may settle such trades bilaterally.[47] Broker-

[38] *See* NSCC PFMI Disclosure Framework, *supra* note 30, at 9–10.

[39] Prime brokers provide a range of centralized services to clients, including, for example, trade execution, custodial services, clearing and settlement services, financing, securities lending, recordkeeping and reporting services, and capital introduction.

[40] Electronic trade confirmation (''ETC'') was originally developed by DTC in the early 1970s as an alternative to the use of phone, fax, or other manual processes. To facilitate greater use of ETC by market participants to process institutional trades, the Commission approved rule changes filed by several SROs that required the use of ETC for trades involving institutional investors. *See* Exchange Act Release No. 19227 (Nov. 9, 1982), 47 FR 51658, 51664 (Nov. 18, 1982) (order approving confirmation rules for exchanges and securities association).

[41] The Commission issued an interpretive release in 1998 concluding that matching constitutes comparison of data respecting the terms of settlement of securities transactions, and therefore an entity that provides matching services as an intermediary between a broker-dealer and an institutional customer is a clearing agency within the meaning of Section 3(a)(23) of the Exchange Act and is, therefore, subject to the registration requirements of Section 17A. *See* Confirmation and Affirmation of Securities Trades, Exchange Act Release No. 39829 (Apr. 6, 1998), 63 FR 17943, 17946 (Apr. 13, 1998); Clearing Agency Standards Adopting Release, *supra* note 20, 77 FR at 66220, 66228 & n.94 (noting the 1998 interpretive release); *see also* 15 U.S.C. 78c(a)(23) (defining the term ''clearing agency''). The Commission has provided exemptions from registering as a clearing agency to certain entities that operate matching and ETC services. *See* Omgeo Order, *supra* note 24; Bloomberg/SS&C Order, *supra* note 24.

[42] Matching is a process by which the Matching/ETC Provider compares and reconciles the broker-dealer's trade details with the institutional investor's allocation instructions to determine whether the two descriptions of the trade agree. If the trade details and institutional investor's allocation instructions match, an affirmed confirmation is generated, which also is used to effect settlement of the trade. As with ETC, transmission of the affirmed confirmations by the Matching/ETC Provider to DTC facilitates automated trade settlement. Bloomberg/SS&C Order, *supra* note 24, 80 FR at 75389.

[43] ETC is a process where the Matching/ETC Provider simply provides the communication facilities to enable a broker-dealer and its institutional investor to send messages back and forth that ultimately results in the agreement of the trade details or affirmed confirmation, which is in turn sent to DTC to effect settlement of the trade. Bloomberg/SS&C Order, *supra* note 24, 80 FR at 75389.

[44] The distinction between ''institutional investor'' and ''retail investor'' is made only for the purpose of noting the manner in which these types of entities generally clear and settle their securities transactions. For the purposes of this release, the term ''institutional investor'' includes any entity that settles its trades using the facilities of a Matching/ETC Provider, and the term ''retail investor'' includes entities that do not use the facilities of a Matching/ETC Provider. For more information about the manner in which these entities clear and settle their securities, *see* the T+2 Proposing Release, *supra* note 1, Part II.A.3.

[45] Due to the financial and operational obligations of entities submitting trades to a clearing agency, all clearing agencies have established specific requirements for initial membership and ongoing participation in the clearing agency. *See, e.g.,* NSCC Rules and Procedures, *supra* note 26, Rules 2A and 2B (discussing initial and ongoing requirements for membership).

[46] *See, e.g.,* BATS EDGX Exchange, Inc. Rule 11.13 and NASDAQ Stock Market Rule 4618 (stating that all transactions through the facilities of the exchange shall be cleared and settled through a registered clearing agency using a continuous net settlement system; however, transactions may be settled ''ex clearing'' provided that both parties to the transaction agree); NYSE Rule 132 (stating that each party to a contract shall submit data regarding its side of the contract to a registered clearing agency for comparison or settlement; however, this requirement does not apply if otherwise stipulated in the bid or offer, otherwise mutually agreed upon by both parties to the contract, or a registered clearing agency refuses to act in the matter).

[47] *See generally* Financial Industry Regulatory Authority (''FINRA'') Rules 6350A(a) and 6350B(a) (requiring that FINRA members must clear and settle transactions in ''designated securities'' (*i.e.,* NMS stocks) through the facilities of a registered clearing agency that uses a continuous net settlement system). *See also* FINRA Rule 6274(a) (requiring that FINRA members must clear and settle transactions ''effected on'' the Alternative Display Facility in ADF-eligible securities (*i.e.,* NMS stocks) that are eligible for net settlement through the facilities of a registered clearing agency that uses a continuous net settlement system). Notwithstanding the requirements in Rules 6350A(a), 6350B(a) and 6274(a), transactions in

dealers that effect transactions in municipal and corporate debt securities generally are required to clear and settle those transactions through a registered clearing agency.[48]

Custodians handle the electronic payment or receipt of payment through the Federal Reserve's Bank's Fedwire system, which automates and streamlines the process by which broker-dealers make payments for securities transactions. Pursuant to DTC rules, DTC participants are required to select a custodial bank to facilitate payment of their transactions cleared and settled through NSCC and DTC, with a net cash payment facilitated between DTC and the DTC participant's custodial bank account. Since many broker-dealers use the same custodial bank to settle their trades, NSCC and DTC can net the total amount being handled by any one custodian for all DTC participants using that bank.

Often, due to regulatory or business obligations, an institutional investor will not use its executing broker-dealer to custody the institutional investor's securities at DTC, but rather will use a custodian bank for the safekeeping and administration of both their securities and cash.[49]

III. Discussion of Amendment to Exchange Act Rule 15c6–1

A. Amendment to Rule 15c6–1

In the T+2 Proposing Release, the Commission proposed to amend Rule 15c6–1(a) to shorten the standard settlement cycle from T+3 to T+2 and articulated several reasons supporting this proposal. The Commission received a number of comment letters in response.[50] As described in Parts III.A.1 through III.A.6 below, commenters generally supported the reasoning in the T+2 Proposing Release for shortening the standard settlement cycle. The comments received are addressed in detail below.

The Commission is adopting as proposed the amendment to Rule 15c6–1(a) to shorten the standard settlement cycle. Specifically, paragraph (a) of Exchange Act Rule 15c6–1, as amended, will prohibit broker-dealers from effecting or entering into a contract for the purchase or sale of a security (other than certain exempted securities[51] that provides for payment of funds and delivery of securities later than the second business day after the date of the contract, unless otherwise expressly agreed to by the parties at the time of the transaction. Subject to the exceptions enumerated in the rule, the prohibition in paragraph (a) of Rule 15c6–1 applies to all securities.[52]

1. Reduction in Risk to CCPs in the Clearance and Settlement Process

In the T+2 Proposing Release, the Commission noted its preliminary belief that shortening the standard settlement cycle would (assuming current levels of trading activity remain constant), for a CCP, result in fewer unsettled trades at any given point in time and a reduced time period of exposure to such trades, which would, in turn, reduce the CCP's credit, market, and liquidity risk exposure to its members.[53] Commenters generally agreed with this position.[54]

Several commenters noted that the reduced period of exposure for CCPs would result in a reduction of credit, market, and/or liquidity risk. For example, one commenter noted that shortening the settlement cycle would reduce the period during which CCPs are exposed to credit risk due to non-payment or non-delivery of a security (*i.e.,* the CCP's exposure to risk if a member defaults on a payment), which could result in the CCP using its financial resources to meet the CCP's end-of-day settlement obligations.[55]

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designated securities and transactions in ADF-eligible securities may be settled ''ex-clearing'' provided that both parties to the transaction agree to the same. *See* FINRA Rules 6350A(b), 6350B(b), 6274(b).

[48] *See* Municipal Securities Rulemaking Board (''MSRB'') Rule G–12(f) (stating that inter-dealer transactions in municipal securities shall be compared through a registered clearing agency); FINRA Rule 11900 (stating that a member or its agent that is a participant in a registered clearing agency, for the purposes of clearing over-the-counter securities transactions, shall use the facilities of a registered clearing agency for the clearance of eligible transactions between members in corporate debt securities).

[49] Section 17(f) of the Investment Company Act of 1940 (the ''Investment Company Act'') and the rules thereunder govern the safekeeping of a registered investment company's assets, and generally provide that a registered investment company must place and maintain its securities and similar instruments only with certain qualified custodians. Section 17(f)(1)(A) of the Investment Company Act permits certain banks to maintain custody of registered investment company assets subject to Commission rules. *See* 15 U.S.C. 80a–17(f).

[50] *See* letters from Michael C. Parker (Sep. 29, 2016) (''Parker''); Eugene W. Guinn (Oct. 14, 2016) (''Guinn''); Sally J. Gellert (Oct. 20, 2016) (''Gellert''); Randy Spydell (Nov. 14, 2016) (''Spydell''); Todd J. May, President, The Securities Transfer Association, Inc. (Nov. 28, 2016) (''STA''); Keith Evans, Executive Director, Canadian Capital Markets Association (Nov. 1, 2016) (''CCMA''); Stephen E. Roth, Sutherland Asbill & Brennan LLP for the Committee of Annuity Insurers (Nov. 29, 2016) (''CAI''); Paul Kim (Dec. 4, 2016) (''Kim''); Greg Babyak, Head, Global Regulatory and Policy Group, Bloomberg L.P. (Dec. 5, 2016) (''Bloomberg''); Mike Nicholas, CEO, Bond Dealers Association (December. 5, 2016) (''BDA''); Micah Hauptman, Financial Services Counsel, Consumer Federation of America (Dec. 5, 2016) (''CFA''); William A. Jacobson, Esq., Clinical Professor of Law, Director, Cornell Securities Law Clinic, and Nandy Millette, and Arjun A. Ajjegowda (''CSLC''); Larry E. Thompson, Vice Chairman & General Counsel, Depository Trust and Clearing Corporation (Dec. 5, 2016) (''DTCC Letter''); Marc. R. Bryant, Senior Vice President, Deputy General Counsel, Fidelity Investments (Dec. 5, 2016) (''Fidelity''); Christopher W. Bok, Financial Information Forum (Dec. 5, 2016) (''FIF''); David T. Bellaire, Esq., Executive Vice President & General Counsel, Financial Services Institute (Dec. 5, 2016) (''FSI''); Richard Foster, Senior Vice President and Senior Counsel for Regulatory and Legal Affairs, Financial Services Roundtable (Dec. 5, 2016) (''FSR''); Martin A. Burns, Chief Industry Operations Officer, Investment Company Institute (Dec. 5, 2016) (''ICI''); Amy B.R. Lancellotta, Managing Director, Independent Directors Council (Dec. 5, 2016) (''IDC''); Stuart J. Kaswell, Executive Vice President & Managing Director, General Counsel, Managed Funds Association (Dec. 5, 2016) (''MFA''); Thomas F. Price, Managing Director, Operations and Technology & BCP, Securities Industry and Financial Markets Association (Dec. 5, 2016) (''SIFMA''); Manisha Kimmel, Chief Regulatory Officer, Wealth Management, Thomson Reuters (Dec. 5, 2016) (''Thomson Reuters''); Robert J. McCarthy, Director of Regulatory Policy, Wells Fargo Advisors (Dec. 5, 2016) (''WFA''); Ryan M. Newill (Dec. 8, 2016) (''Newill''); Jezamine Wee (Dec. 8, 2016) (''Wee''); Gene Finn, Ph.D. (Dec. 21, 2016) (''Finn I''); Gee Finn, Ph.D. (Dec. 21, 2016) (''Finn II''); Suzanne Shatto (Jan. 24, 2017) (''Shatto''). Copies of the comment letters are available at *https://www.sec.gov/comments/s7-22-16/s72216.htm.*

[51] Rule 15c6–1(a) does not apply to a contract for an exempted security, government security, municipal security, commercial paper, bankers' acceptances, or commercial bills. 17 CFR 240.15c6–1(a). The rule also provides additional exemptions for: (i) Transactions in limited partnership interests that are not listed on an exchange or for which quotations are not disseminated through an automated quotation system of a registered securities association; (ii) contracts for the purchase and sale of securities that the Commission may from time to time, taking into account then existing market practices, exempt by order; and (iii) contracts for the sale of cash securities that priced after 4:30 p.m. (Eastern Standard Time) that are sold by an issuer to an underwriter pursuant to a firm commitment offering registered under the Securities Act of 1933 (''Securities Act'') or the sale to an initial purchaser by a broker-dealer participating in such offering. 17 CFR 240.15c6–1(b) and (c).

Additionally, as discussed further in the T+3 Adopting Release, the Commission determined not to include transactions in municipal securities within the scope of Rule 15c6–1, with the expectation that the MSRB would take the lead in implementing three-day settlement of municipal securities by the implementation date of the new rule. The Commission requested a report from the MSRB within six months of the Commission's adoption of Rule 15c6–1 outlining the schedule in which the MSRB intended to implement T+3 in the municipal securities market. T+3 Adopting Release, *supra* note 15, 58 FR at 52899. MSRB rules that established T+3 as the standard settlement cycle for transactions in municipal securities became operative on June 7, 1995 (the same date as Exchange Act Rule 15c6–1). *See* Order Approving MSRB Proposed Rule Change Establishing Three Business Day Settlement Time Frame, Exchange Act Release No. 35427 (Feb. 28, 1995), 60 FR 12798 (Mar. 8, 1995).

[52] *See* note 23 *supra* for a discussion of the securities subject to Rule 15c6–1.

[53] T+2 Proposing Release, *supra* note 1, 81 FR at 69257 and 69241 n.3.

[54] Bloomberg at 1; CFA at 3; DTCC Letter at 2; Fidelity at 1; FIF at 2; FSI at 2; ICI at 4–5; IDC at 1; MFA at 1–2; SIFMA at 1.

[55] FIF at 2.

Similarly, one commenter stated that a shorter settlement cycle would diminish counterparty and mark-to-market risks because the number of days between entering a transaction, until the time it is settled, is reduced by one day. This reduction would decrease the possibility of a counterparty failure prior to settlement, as well as the possibility of changes in the market value of the security purchased.[56] Another commenter stated, from the perspective of a CCP, that the T+2 transition would correspondingly decrease the number of unsettled trades in the clearance and settlement system at any given time, which would mean that fewer unsettled trades would be subject to counterparty risk and market risk. The commenter further added that the market risk of unsettled trades would be reduced because there would be less time between trade execution and settlement for potential price movements in the securities underlying those trades.[57]

The Commission believes that, in the case of a CCP, fewer unsettled trades and a reduced time period of exposure to such trades will reduce the CCP's credit, market, and liquidity risk exposure to its members.[58] As discussed earlier, a CCP, through novation and the provision of its trade guaranty, acts as the counterparty to its members and faces resultant credit risk in that a clearing member, both on behalf of purchasers of securities who may fail to deliver the payment and on behalf of sellers of securities who may fail to deliver the securities. In each case, the CCP is required to meet its obligation to its members, which in respect of the buyer is to deliver securities, and in respect of the seller is to deliver cash.

The CCP also faces market risk if, during the settlement cycle, a member defaults and the CCP may be forced to liquidate open positions of the defaulting member and any financial resources of the member it may hold (*i.e.,* collateral) to cover losses and expenses in adverse market circumstances. For example, if the market value of the unsettled securities has increased after the trade date, in the case of a seller default, the CCP may be forced to obtain the replacement securities in the market at a higher price, and in the case of a buyer default, the CCP may be forced to obtain cash to purchase the securities at a higher price, which could involve liquidation of its members' collateral.

Finally, the CCP can face liquidity risks during the settlement cycle if a member defaults, resulting in the CCP deploying financial resources to meet the CCP's end-of-day settlement obligations.[59] In each instance, the amount and period of risk to which the CCP is exposed is a function of the length of the settlement cycle, and the Commission therefore believes that shortening the settlement cycle should reduce the CCP's overall exposure to those risks.

2. Reduction in Risk to CCP Members

In the T+2 Proposing Release, the Commission stated its preliminary belief that shortening the standard settlement cycle to T+2 would result in liquidity risk reductions for broker-dealers that are CCP members.[60] As discussed earlier and in the T+2 Proposing Release,[61] a CCP may take a number of measures to manage the risks its members present, including the collection of member financial resource contributions and netting down the total outstanding exposure of a particular member. However, the extent to which a CCP must apply these risk mitigation tools is dictated by, among other things, the amount of unsettled trades that remain outstanding as well as the time during which the CCP remains exposed to these risks. Thus, the Commission believes that reducing the amount of unsettled trades and the period of time during which the CCP is exposed to such trades will result in a reduction in financial resource obligations for CCP members.[62]

Many commenters agreed.[63] For example, one commenter stated that shortening the settlement cycle would result in fewer unsettled trades at any point in time, which would reduce capital and clearing fund requirements for the CCP and its broker-dealer clearing members, which, in turn, would result in positive liquidity to broker-dealers that are direct members of clearing agencies.[64] Similarly, one commenter noted that by shortening the settlement cycle, market participants' exposure to customers' open positions would be reduced, which would allow financial institutions to better manage liquidity needs and margin requirements at CCPs.[65]

Another commenter stated that reduced collateral requirements would also help reduce liquidity risks, thereby improving capital utilization by market participants.[66] An additional commenter agreed with the Commission's preliminary belief, as articulated in the T+2 Proposing Release, that a shorter settlement cycle is likely to reduce liquidity risk for broker-dealers, with less collateral required to mitigate the risk of unsettled trades.[67] Another commenter stated that the reduction in counterparty risk would directly translate into a reduction of collateral requirements from CCPs, thus improving capital efficiency by CCP members.[68] Several other commenters stated generally that the transition to T+2 would reduce liquidity demands on market participants, decrease clearing capital requirements for broker-dealers, enhance liquidity, and/or improve the use of capital.[69]

After considering the comments, the Commission continues to believe that the transition to a T+2 standard settlement cycle will have a positive impact on the liquidity risks and costs faced by CCP members. The Commission expects that the reduction in the amount of unsettled trades and the period of time during which the CCP is exposed to risk will reduce the amount of financial resources that CCP members may have to provide to support the CCP's risk management process, both on an ordinary-course basis as well as in less predictable or procyclical instances where adverse general market conditions or a CCP member default results in a sudden liquidity demand by the CCP for additional financial resources from market participants.[70] This reduction in

[56] ICI at 5. Generally, market risk refers to the risk that the value of securities bought and sold will change between trade execution and settlement such that the completion of the trade would result in a financial loss. T+2 Proposing Release, *supra* note 1, 81 FR at 69241 n.3.

[57] DTCC Letter at 2.

[58] *See also* note 5 *supra.*

[59] The costs associated with deploying such resources are ultimately borne by the CCP members, both in the ordinary course of the CCP's daily risk management process and in the event of an extraordinary event where members may be subject to additional liquidity assessments. As discussed earlier, these costs may be passed on through the CCP members to broker-dealers and investors.

[60] *See* T+2 Proposing Release, *supra* note 1, 81 FR at 69257.

[61] *See* T+2 Proposing Release, *supra* note 1, 81 FR at 69243–44; Part III.A.1 *supra.*

[62] *See* T+2 Proposing Release, *supra* note 1, 81 FR at 69250–51.

[63] ICI at 4–5; SIFMA at 15; DTCC at 2; WFA at 2; FIF at 2; Fidelity at 1; FSI at 3; IDC at 1; Newill at 1.

[64] ICI at 4–5.

[65] WFA at 2.

[66] SIFMA at 15.

[67] FIF at 2.

[68] The commenter, the holding company for, among other entities, NSCC and DTC, noted a recent analysis that it conducted which indicated that the move to T+2 would reduce NSCC clearing fund deposits by an average of almost 25%, which translates into approximately $1.36 billion of freed capital for NSCC's members, although this analysis does not reflect the implementation of NSCC's accelerated trade guaranty, as discussed in note 27 *supra* and accompanying text. DTCC Letter at 2 and n.2; SIFMA at 10 n.43.

[69] Fidelity at 1; FSI at 3; IDC at 1; Newill at 1.

[70] The term ''procyclical'' is generally understood to refer to changes in risk-management practices

the potential need for financial resources should, in turn, reduce the liquidity costs and capital demands clearing broker-dealers face in the current environment and allow for improved capital utilization.

The Commission believes that shortening the standard settlement cycle to T+2 will result in reductions in liquidity risk for broker-dealers that are CCP members and additionally provide certain attendant benefits, including but not limited to, lower costs on a business and transactional basis, and improved use of financial resources.

3. Benefits to Other Market Participants From a Shortened Settlement Cycle

In the T+2 Proposing Release, the Commission stated its preliminary belief that shortening the standard settlement cycle would also lead to benefits to other market participants, including introducing broker-dealers, institutional investors, and retail investors.[71] These benefits would include quicker access to funds and securities following trade execution, which should further reduce liquidity risks and financing costs faced by market participants who may use those proceeds to transact in other markets, including the derivatives markets and non-U.S. markets that already operate on a T+2 settlement cycle.[72] They would also include reduced margin charges and other fees that clearing broker-dealers may pass down to other market participants, thereby reducing transaction costs generally and freeing up capital for deployment elsewhere in the markets by those entities.[73] Commenters generally supported this belief.[74]

a. Introducing Broker-Dealers

With respect to introducing broker-dealers, one commenter stated that introducing firms would benefit from shortening the settlement cycle to T+2, including through the reduction in liquidity risk and lowered costs related to margin and other charges and fees imposed by clearing brokers in association with managing credit risk. The commenter also stated that the underlying customer of an introducing firm would stand to realize significant benefits from the migration, including the more rapid returns of the proceeds of a sale of a security given the shortened settlement cycle.[75]

The Commission agrees that introducing broker-dealers would benefit from a T+2 settlement cycle. Such entities would be able to access their own funds and securities from a transaction more quickly than under the current settlement cycle, which would reduce liquidity risk and free up capital. They would also face lower costs related to margin charges and other fees that clearing brokers may pass down as part of the costs related to the clearing brokers' risk management program. As noted above, several commenters noted that clearing broker-dealers would likely benefit from reduced clearing requirements.[76] The Commission agrees that such reduced requirements could, in turn, result in reduced charges and fees for introducing broker-dealers.

b. Institutional Investors

Several commenters noted that a shortened settlement cycle would reduce funding gaps and potential additional financing costs for institutional investors resulting from mismatched settlement cycles that apply to mutual funds whose own securities settle on a different cycle than those in their portfolio.[77] Specifically, these commenters stated that, in the context of mutual funds, a shortened settlement cycle would reduce the funding gap between settlement of a mutual fund's portfolio securities (which settle on T+3) and the settlement of shares issued to investors through the mutual fund itself (which settle on T+1), improving cash management for funds to meet redemptions.[78]

These comments support the Commission's belief, as initially expressed in the T+2 Proposing Release,[79] that by better aligning the settlement cycles between the underlying portfolio securities and the securities issued to investors through the mutual fund, the risk to the fund, and ultimately investors, is reduced. Under a shortened standard settlement cycle, the mutual fund will receive the proceeds of the transaction more quickly, which, in turn, will free up liquidity generally and, in particular, if there are significant new outflows or cash is needed to address other market stresses.

c. Retail Investors

Several commenters stated that a shortened standard settlement cycle would lead to benefits for retail investors, particularly through quicker access to funds and securities following trade execution. Specifically, these commenters noted that settlement of trades on a T+2 standard settlement cycle would improve investors' access to capital and reduce the need to borrow funds.[80]

Several commenters noted that retail investors would benefit from a shorter standard settlement cycle because of reduced risk in the settlement process. One commenter stated that different settlement cycles have the potential to contribute towards failed trades for an investor who, for example, attempts to buy a mutual fund upon selling an exchange-traded fund. This can be especially true when an investor attempts to rebalance a portfolio of securities consisting of various securities with differing settlement cycles.[81] An additional commenter stated that retail investors, among others, would benefit from a shorter standard settlement cycle through reduced risk in the settlement process, based on the related reduction in counterparty risk and liquidity demands on market participants, decreased clearing capital requirements for broker-dealers, and harmonization of the global settlement process as many foreign securities markets already operate on a

that are positively correlated with market, business, or credit cycle fluctuations that may cause or exacerbate financial stability.

[71] To the extent they engage in proprietary trading, clearing broker-dealers should also realize many of the same benefits described in this section, including quicker access to funds and securities following trade execution and a reduction in liquidity risk.

[72] The length of the settlement cycle governs the time when the proceeds of a securities transaction may be made available to the member/participant. A mismatch in timing between the settlement cycle for the securities transaction and the settlement cycle for another market transaction, such as in the derivatives market or a non-U.S. market with a different settlement cycle, can in turn lead to liquidity risk for the member in meeting all of its settlement obligations across markets. *See* T+2 Proposing Release, *supra* note 1, 81 FR at 69251 and n.77.

[73] T+2 Proposing Release, *supra* note 1, 81 FR at 69257–58.

[74] FSI at 2; SIFMA at 15–16; ICI at 4–5; IDC at 1–2; WFA at 2–3; Wee at 1; Fidelity at 1; Newill.

[75] SIFMA at 12.

[76] Newill at 1; DTCC Letter at 2; Fidelity at 1; ICI at 4–5.

[77] ICI at 4: IDC at 1–2.

[78] ICI at 4; IDC at 1–2. These commenters also noted more generally that the proposal would reduce funding gaps among all types of securities, as settlement cycles would be better aligned, including those for various types of portfolio securities such as derivatives and government bonds. For example, the settlement cycle timeframe for open-end mutual funds that settle through NSCC is generally T+1. However, the standard settlement cycle timeframe for many underlying portfolio securities held by mutual funds is T+3. Settlement timeframes for securities with non-standard settlements held by these funds may be longer than T+3. This mismatch in timing presents potential liquidity risks for such funds as market participants with respect to the receipt of portfolio proceeds and in satisfying their investor redemption obligations. *See* T+2 Proposing Release, *supra* note 1, 81 FR at 69251 n.77; Investment Company Liquidity Risk Management Programs Release No. 32315 (Oct. 13, 2016), 81 FR 82142, 82143 n.9 (Nov. 18, 2016).

[79] *See* T+2 Proposing Release, *supra* note 1, 81 FR at 69257 n.156.

[80] WFA at 2–3; Wee at 1; Fidelity at 1.

[81] WFA at 2–3.

T+2 settlement cycle.[82] The Commission agrees that, like other market participants, retail investors will benefit from reduced risks arising in a shortened standard settlement cycle as a result of the reduced risks for CCPs and CCP members discussed above in Parts III.A.1 and III.A.2. The Commission further believes that reducing the number of days in the standard settlement cycle will reduce the exposure of retail investors, and institutional investors, to the risks of failure to make payment or deliver securities, thereby reducing overall risks to all investors.

In addition, one commenter cited lower transaction costs for investors as a benefit of shortening the settlement cycle to T+2, although this commenter did not provide specific data or information to support this conclusion.[83] As noted above, the Commission generally believes that a transition to a T+2 standard settlement cycle will result in reduced costs for broker-dealers, including those whose customers are retail investors. Such broker-dealers may or may not choose to pass on the benefit of reduced costs to their retail investor customers, and therefore it is not clear that retail investors would, in all instances, experience a benefit of reduced fees or other costs charged by their broker-dealers. However, as discussed further below, the Commission generally believes that retail investors may bear few (if any) direct costs in a transition to a T+2 standard settlement cycle because their respective broker-dealers handle the back-office settlement functions of each transaction.[84] The Commission further agrees with the comments described above that moving to a T+2 standard settlement cycle should, in and of itself, result in a number of the benefits that the comments identify, including with respect to the rebalancing of an investor's portfolio or the modification of asset allocation, by reducing settlement timeframes and related risks. For example, the Commission believes that a T+2 settlement cycle will allow retail investors to gain quicker access to funds and securities following trade execution.

One commenter who focused on the concerns of retail investors stated that the Commission's proposal to transition to a T+2 settlement cycle would be ''woefully insufficient'' to address their needs in the current environment.[85] In discussing the impact of the T+3 standard settlement cycle on retail investors, the commenter noted that the time from order execution until the securities are exchanged for cash is a lengthy waiting process (up to five days if the process extends over a weekend) that can be frustrating and potentially damaging for investors who are faced with immediate and unexpected financial obligations. The commenter noted that investors may respond to this lengthy settlement process by keeping larger buffers of cash on hand, which can be costly and inefficient, or alternatively, they may borrow money short-term, often at high interest rates, to bridge the gap, which can be costly, or they may just have to wait until the transaction has settled, which can have other opportunity costs.[86] This same commenter noted that other scenarios related to the current settlement timeframe can cost investors money and impede basic transactions. For example, if an investor tries to sell shares of an ETF and then tries to buy shares of a traditional open-end mutual fund on the same day, the broker may not allow the trade due to the two-day difference in settlement between the ETF shares and the mutual fund shares. If the investor tries to make the trade, the account will be short cash for several days, which means at best, the investor would be charged interest or the buy order would not go through. The delay in settlement may cause routine rebalancing of an investor's portfolio or the modification of asset allocation to turn into a lengthy and complicated multi-step processes. In short, this commenter stated that the Commission's proposal to shorten the T+3 settlement cycle by only one day would be inadequate to address the range of retail investor challenges identified by the commenter.[87]

The Commission agrees that, all else being equal, moving to a T+1 standard settlement cycle would likely result in retail investors receiving transaction proceeds sooner than under a T+2 standard settlement cycle, and that a shorter standard settlement cycle could mitigate, or in some cases eliminate, the potential issues for retail investors identified by the commenter.[88] However, the Commission believes that shortening the standard settlement cycle to T+2 will address many of these concerns. Additionally, the Commission believes that the important risk-reducing benefits of a shortened standard settlement cycle for market participants, including retail investors, can be quickly achieved at this time with a T+2 settlement cycle because the necessary preparation (including appropriate technological and operational changes) has occurred to support moving to a T+2 standard settlement cycle. Consequently, movement at this time to a T+2 standard may be accomplished in a timely and cost-effective, manner that minimizes undue disruptions in the securities markets. As noted earlier, the near-term benefits of a T+2 standard settlement cycle include quicker access to funds and a reduction in borrowing and other transaction costs, as well as reduced risk in the settlement process and a greater ability to manage asset allocation (including the allocation challenges the commenter describes above in the context of mutual fund and exchange-traded fund security purchases). Therefore, the Commission believes, as discussed further in Part VI.D.1 below, that a transition to a T+2 standard settlement cycle will realize these important benefits in the near term in a manner that is relatively more cost effective and consistent with the current state of market participant preparedness than a transition to T+1. The Commission also notes that this belief is supported by those commenters who observed that a move to a T+2 standard settlement cycle, and the realization of risk-reducing benefits for retail and other investors, is relatively more feasible and cost effective in the near term than a T+1 transition.[89] Therefore, the Commission notes that a move to a T+2 standard settlement cycle is an appropriate step at this time. Further, the movement to T+2 at this time does not foreclose future efforts to shorten the settlement cycle beyond T+2.[90]

Several other commenters raised concerns regarding how a change in the current T+3 environment could result in challenges and costs for retail investors.[91] Two commenters discussed

[82] Fidelity at 1.

[83] Newill.

[84] For a further discussion, see Part VI.B.2 *infra.* As discussed further therein, it is possible that retail investors may face indirect costs from the transition, such as those passed through from broker-dealers or banks.

[85] *See* CFA at 1. In particular, this commenter supported shortening the settlement cycle to a T+1 standard based on STP. The Commission addresses this portion of the commenter's letter regarding a standard settlement cycle shorter than T+2 further in Parts VI.D.1 and Part VI.D.2 *infra.*

[86] CFA at 2–3.

[87] Id at 1, 3–5.

[88] *See, e.g., id.* at 2–3 (identifying as issues for retail investors under the current settlement cycle the lengthy waiting period that can arise between trade execution and settlement, exposing retail investors to the potential need to address the risk of immediate and unexpected financial obligations, as well as the mismatch in settlement cycles between the shares of an ETF and the shares of a traditional open-end mutual fund).

[89] *See* Part VI.D.1 *infra* for a discussion of such comments.

[90] *See* Part V *infra.*

[91] Gellert; CSLC at 1–2; BDA at 1. In addition, one commenter stated that the Commission failed to

the impact that a shortened settlement cycle would have on individuals who use paper checks to facilitate payment and transfer of funds for the settlement of securities transactions. One of these commenters observed that moving to a settlement cycle shorter than T+3 would impose hardships on such individuals, noting that the current T+3 settlement cycle already places pressure on individuals who may use paper checks instead of other modes of payment, such as electronic payment transfer systems. The commenter further observed that a T+2 settlement cycle therefore would increase such pressures as well as the likelihood of increased reliance on electronic payment transfers; the commenter also expressed concern about the potential for new risks and costs that may come from such reliance upon electronic payment transfers, including risks and costs related to the security of personal information. In light of these potential new risks and costs, the commenter expressed a belief that a T+2 standard settlement cycle could give rise to barriers to stock ownership by retail investors.[92]

The other commenter who raised issues with respect to the use of paper checks expressed concern that the proposed amendment to Rule 15c6–1(a) would shorten the timeframe within which a broker-dealer would be required to cancel or liquidate an unpaid cash account transaction under the Federal Reserve Board's Regulation T, from the current five business days after the transaction date, to four business days after the transaction date.[93] The commenter urged regulators to ensure that the shortened settlement cycle does not negatively impact retail clients that still rely on sending checks, which may not be sent, received, processed, and cleared within four days after the transaction date.[94]

In response to these commenters, the Commission acknowledges that shortening the standard settlement cycle to T+2 may create additional costs for retail investors who choose to fund securities transactions by mailing a paper check to their broker-dealer. For example, retail investors who wish to continue using paper checks may need to deliver their checks to their broker-dealers more quickly and in a more costly manner (*i.e.,* hand or overnight delivery as opposed to delivery via the postal service). The Commission also acknowledges that, in light of such challenges, certain retail investors may need to adopt or increase their use of electronic payment methods, and that the use of electronic payment methods may introduce new costs and risks for such investors, including with respect to the protection of personal information. The Commission further acknowledges that such costs and risks could potentially impact the willingness of certain retail investors to participate in the securities markets, including via stock ownership. However, using electronic payment options may also lower existing costs to retail investors.

While recognizing the concerns raised by these commenters, however, the Commission believes that the risk-reducing benefits discussed above that will be realized by market participants, including retail investors, as a result of a shortened standard settlement cycle justify the potential costs and risks identified by the commenters. As noted above, the Commission believes that retail investors will gain quicker access to funds and securities following trade execution, which in turn will allow retail investors to re-deploy their assets more quickly and efficiently for other purposes, including additional investment and risk management. On balance, the Commission believes that this benefit is more likely to decrease rather than increase barriers to participation by retail investors in the securities markets, including through stock ownership.

Separately, while discussing the potential negative impact of a shortened settlement cycle on retail investors, one commenter asserted that shortening the standard settlement cycle to T+2 could give rise to destabilizing effects on the financial markets. In making this observation, the commenter expressed a view that shortened settlement periods result in weaker liquidity requirements for broker-dealers and market makers, as well as an increased likelihood of computerized high-volume trading that could destabilize the market.[95] In response, the Commission notes that, as discussed in Parts III.A.1, 2, and 3.a and b above, a transition to a T+2 standard settlement cycle will reduce, as opposed to heighten, liquidity risk exposure for market participants because, for a CCP, there would be fewer unsettled trades at any given point in time and a reduced time period of exposure to such trades, resulting in a CCP's reduced potential need for financial resources, which should, in turn reduce the liquidity costs for clearing broker-dealers and those market participants that rely upon the services of clearing broker-dealers.

Further, with respect to the impact a shorter settlement cycle may have on the presence of computerized high-volume trading in the financial markets, the Commission notes that the commenter has not provided information or other evidence demonstrating how an increase in the pace of trade settlement will result in an increase in the presence of computerized high-volume trading that could destabilize the financial markets. The Commission believes that amending the length of the settlement cycle will affect the manner in which post-trade processes occur, but does not expect the proposed amendment to alter the incidence of computerized trading or how such activity influences market stability. The Commission further believes that, as discussed above, a shortened standard settlement cycle is appropriate given the reduction in credit, market, and liquidity risks associated with a shorter settlement cycle. Therefore, the Commission is not persuaded that a shortened standard settlement cycle will give rise to the liquidity risk and market stability concerns raised by the commenter.

meaningfully address how the amendment would affect smaller individual investors and instead focused on institutional market participants, primarily broker-dealers, and clearing firms. CSLC at 2. The commenter asserted that the Commission had failed to identify or analyze significant impediments with the current T+3 standard settlement cycle, and concluded by stating that it opposed the proposal until the proposal adequately takes these considerations into account. CSLC at 3. In response, the Commission notes that the T+2 Proposing Release specifically detailed both the current process by which retail investors clear and settle their securities transactions in a T+3 environment and the impact of that process on retail investors. *See, e.g.,* T+2 Proposing Release, *supra* note 1, 81 FR at 69427–69428. In addition, the Commission solicited specific comment in the T+2 Proposing Release regarding the potential impact a move to T+2 could have on retail investors, including potential costs and benefits for retail investors. *See id.* at 69262. Further, as described herein, a number of commenters, including this commenter, submitted specific responses to the inquiries in the T+2 Proposing Release focused on retail investors. Among those commenters, a number raised specific issues related to retail investors that the Commission has addressed herein, including ways that a move to T+2 could potentially heighten or lower impediments to a national system for the prompt and accurate clearance and settlement of securities transactions.

[92] Gellert.

[93] BDA at 1–2 (noting that under Regulation T, the term ''payment period'' means the number of business days in the standard securities settlement cycle in the United States, as defined in paragraph (a) of Rule 15c6–1, plus two business days). Regulation T provides that, with respect to cash account transactions, a creditor shall obtain full cash payment for customer purchases within one payment period of the date any ''nonexempted security'' was purchased, and that a creditor shall promptly cancel or liquidate a transaction or any part of a transaction for which the customer has not made full cash payment with the required time. 12 CFR 220.8(b)(i) and (ii)(4).

[94] BDA at 2.

[95] Gellert.

4. Cross-Border Harmonization

In the T+2 Proposing Release, the Commission noted that the proposed amendment to Rule 15c6–1(a) would harmonize the settlement cycle in the U.S. with non-U.S. markets that had already moved to a T+2 settlement cycle or were planning to do so.[96] In addition, the Commission discussed the potential benefits of harmonizing settlement cycles across markets, which included reducing the degree to and time during which, market participants are exposed to credit, market, and liquidity risk arising from unsettled transactions.[97]

A number of commenters cited increased global harmonization of settlement cycles as a prospective benefit of moving to a T+2 settlement cycle in the U.S.[98] One commenter stated that the benefits of harmonized settlement cycles would include increased efficiency in coordinating trading among investors across international markets and decreased operational risk because investment managers would not need to balance inconsistent settlement cycles across broad asset classes common to both U.S. and international markets.[99]

Another commenter stated that the industry would benefit from the reduction of hedge risks stemming from mismatched settlement cycles (*e.g.,* the one day lag between settlement in Europe and settlement in the U.S.). The same commenter noted that harmonization between markets should also further reduce risk to market participants, as participants would no longer be required to choose between bearing an additional day of market risk in the European trading markets by delaying by one day the purchase of securities on European markets, or funding such a transaction with short-term borrowing, as the settlement cycle in both U.S. and European markets will be aligned.[100]

Another commenter noted that consistency in the settlement cycle across the U.S. and non-U.S. markets could help funds better manage liquidity and cash flow, which could reduce and simplify financing needs.[101] A fourth commenter stated that a further harmonized global securities settlement cycle would reduce operational risk for institutional investors by closing the gap in the settlement cycle between the U.S. and other foreign markets in which they invest, standardizing cross-border settlement processes, and fostering adoption of industry best practices.[102]

These commenters generally supported the Commission's belief that aligning the settlement cycle in the U.S. with the settlement cycle in several major non-U.S. markets that have already moved to T+2 or are planning to do so will benefit market participants. The Commission agrees that harmonization of settlement cycles may reduce the need for some market participants engaging in cross-border transactions to hedge risks stemming from mismatched settlement cycles. In addition, the Commission agrees that harmonization of the U.S. settlement cycle with the T+2 settlement cycle in certain non-U.S. markets will reduce financing/borrowing costs for market participants who engage in cross-border transactions in both those markets and U.S. markets.[103]

5. Reduction in Systemic Risk

In the T+2 Proposing Release, the Commission noted its preliminary belief that the reductions in credit, market, and liquidity risks should reduce systemic risk, and that, as it stated in adopting Rule 15c6–1 in 1993, reducing the total volume and value of outstanding obligations in the settlement pipeline at any point in time will better insulate the financial sector from the potential systemic consequences of serious market disruptions. The Commission also noted that reducing the period of time during which a CCP is exposed to credit, market, and liquidity risk should enhance the CCP's overall ability to serve as a source of stability and efficiency in the national clearance and settlement system, thereby reducing the likelihood that disruptions in the clearance and settlement process will trigger consequential disruptions that extend beyond the cleared markets.[104]

Several commenters generally agreed with this belief, noting that shortening the standard settlement cycle to T+2 would result in reduced systemic risk or enhanced financial stability.[105] For example, one commenter strongly agreed with the Commission's description of the systemic risk benefits from moving to T+2, noting that, in light of the financial resource and liquidity demands facing CCPs and other market participants during times of market volatility and stress, a shorter settlement cycle should help meaningfully reduce those demands. The commenter also agreed with the Commission that reducing the total volume and value of obligations in the settlement pipeline at any given time would help minimize the systemic consequences of serious market disruptions. The commenter further noted that minimizing risk in the context of CCPs can limit the circumstances in which a disruption in the clearance and settlement system will extend to other aspects of the market.[106] Another commenter identified one benefit of the shortened settlement cycle as a more stable financial system, based on reduced counterparty risk and the amount of capital required to be maintained by clearing firms to mitigate such risk, as well as less operational and systemic risk through reduced exposure between the parties to a trade, between the counterparties to the clearinghouse, and for the clearinghouse itself.[107]

The Commission agrees with commenters that the reduction in credit, market, and liquidity risks resulting from a shortened settlement cycle should reduce systemic risk. Because of the potential procyclical impact on financial resource and other liquidity demands by CCPs and other market participants during times of market volatility and stress, efforts to reduce these liquidity demands through a shorter settlement cycle are expected to reduce systemic risk.[108]

The Commission noted in the T+2 Proposing Release that the reduction in exposure to credit, market, liquidity, and systemic risk arising from fewer unsettled transactions at any one time due to a shorter settlement cycle should improve the stability of the U.S.

[96] T+2 Proposing Release, *supra* note 1, 81 FR at 69258.

[97] T+2 Proposing Release, *supra* note 1, 81 FR at 69258, 69259, 69269.

[98] DTCC Letter at 2 and 3; Fidelity at 1; FIF at 3; FSI at 3; ICI at 5–6; IDC at 1; MFA at 2; Newill at 1; SIFMA at 16; STA at 1–2; Thomson Reuters at 3 (noting further that T+2 would be consistent with the FX markets); WFA at 3; Wee at 1–2.

[99] SIFMA at 16. The commenter also noted that a transition to a T+2 settlement cycle in the United States would result in over 77% of top ten markets worldwide, as calculated by market capitalization, operating in a T+2 settlement environment. *Id.*

[100] FIF at 3.

[101] IDC at 1.

[102] ICI at 5.

[103] However, the Commission notes that the shortened standard settlement cycle cannot address the fact that certain non-U.S. markets may continue to face harmonization issues based on the different time zones in which the transactions occur.

[104] T+2 Proposing Release, *supra* note 1, 81 FR at 69257. *See also* Parts III.A.1 and III.A.2, *supra.*

[105] Bloomberg at 1; DTCC Letter at 2; FIF at 2; FSR; FSI at 2; Kim at 1; MFA at 1–2; Newill at1; SIFMA at 15; WFA at 2. An additional commenter noted generally that shortening the settlement cycle would help protect market participants from credit, market, and liquidity risks, reduce the threat of systemic risk, and hasten the processing of investors' transactions, but continued to advocate for changes beyond T+2. CFA at 3. *See also* T+2 Proposing Release, *supra* note 1, 81 FR at 69258.

[106] SIFMA at 15.

[107] FSI at 2.

[108] T+2 Proposing Release, *supra* note 1, 81 FR at 69258.

markets.[109] One commenter agreed with the Commission and stated that CCPs would be better positioned to serve as a source of stability and efficiency within the clearance and settlement system when there is a shorter period of time during which they are exposed to credit, market, and liquidity risks, because the shorter period of time limits the volume of trades subject to the guarantee at any one time.[110] Another commenter stated that the decrease in counterparty and mark-to-market risk, which are typically magnified during times of highly volatile markets, would add to the overall stability of the financial system.[111]

The Commission agrees with these commenters that reducing the period of time during which a CCP is exposed to credit, market, and liquidity risk should enhance the overall ability of the CCP to serve as a source of stability and efficiency in the national clearance and settlement system, thereby reducing the likelihood that disruptions in the clearance and settlement process will trigger consequential disruptions that extend beyond the cleared markets.[112]

6. Leveraging and Advancement of Existing Technology, Operations, and Market Infrastructure

In the T+2 Proposing Release, the Commission stated its preliminary belief that significant advancements in technology and the changes in market infrastructures and operations that have occurred since 1993, which are widely assimilated into market practices, provide a basis to accommodate shortening the standard settlement cycle to T+2.[113] The Commission further noted in the T+2 Proposing Release that it has observed that market participants have begun to accelerate collective progress to prepare for a transition to a T+2 settlement cycle.[114] Several commenters expressed general support for this view.[115]

One commenter stated that, with current computer and software technology, a move to T+2 is feasible and sensible.[116] An additional commenter supported the Commission's preliminary belief, noting that market participants already have invested in evaluating and preparing for a potential move to a T+2 standard settlement cycle, thus making the industry well-positioned to capitalize on those efforts and complete the transition to a shorter settlement cycle.[117] The commenter further noted that the industry has made incremental improvements in batch processing systems as the technology to do so has become available, and has moved to real-time processing where logical (*e.g.,* NSCC Trade Reporting).[118]

The Commission agrees with the comments that the current state of technology and market infrastructure and operations support amending Rule 15c6–1(a) to establish a T+2 settlement cycle. As noted by commenters, market participants are actively working to transition to a T+2 settlement cycle and have made investments in technology and operations to do so. The Commission believes that these advancements in technology and changes in market infrastructures and operations, which have occurred since 1993 generally and in conjunction with recent efforts to transition to a T+2 standard settlement cycle, support shortening the settlement cycle.

Several commenters also expressed support for shortening the standard settlement cycle to T+2 by noting that a shorter settlement cycle will promote operational efficiencies.[119] In the T+2 Proposing Release the Commission noted that a shortened settlement cycle may necessitate incremental increases in utilization by certain market participants of Matching/ETC Providers, with a focus on improving and accelerating affirmation/confirmation processes, as well as relative enhancements to efficiencies in the services and operations of the Matching/ETC Providers themselves.[120] The Commission further stated that it preliminarily expects that these changes may be necessary in a T+2 environment because certain steps related to the allocation, confirmation, and affirmation of institutional trades will need to occur earlier in the settlement cycle compared to in a T+3 environment.[121]

Consistent with this view, one commenter noted that a T+2 standard settlement cycle would motivate market participants to tighten their operational processes. This commenter stated that it expects institutional investors to improve the quality of settlement instructions and static settlement data maintenance, and increase automation and STP rates with their broker-dealers and custodian banks.[122] This commenter added that this would result in higher numbers of on-time affirmed, confirmed, and settled trades.[123] Similarly, another commenter stated a T+2 standard settlement cycle would lead to enhancements and compression of batch processing systems.[124]

Another commenter noted that it believes that a shorter settlement cycle would lead to greater use of automation in the settlement process.[125] This commenter stated that automation in the settlement process will enable STP and contribute to increases in same-day affirmation rates and increases in settlement rates, with an attendant decrease in exceptions that lead to fails, and that automation will also eliminate inefficient procedures for clearance and settlement and lower overall costs to investors.[126] In addition, this commenter noted that it believes that automation would not only enable a T+2 standard settlement cycle but will also facilitate moving to an even shorter settlement cycle.[127]

The Commission agrees with the comments that moving to a T+2 settlement cycle will lead market participants to develop and utilize more efficient operational processes. The Commission noted in the T+2 Proposing Release that technological and operational changes necessary to support a T+2 standard settlement cycle would in many cases require only incremental modifications to existing market infrastructures and systems and processes. Some comments anticipated that the changes necessary to support a T+2 standard settlement cycle may improve operational efficiency.[128]

B. Paragraphs (b), (c), and (d) of Rule 15c6–1

In the T+2 Proposing Release, the Commission requested comment as to whether the Commission should consider any amendments to paragraphs

[109] T+2 Proposing Release, *supra* note 1, 81 FR at 69257.

[110] SIFMA at 15.

[111] ICI at 18.

[112] *See* T+2 Proposing Release, *supra* note 1, 81 FR at 69258; *see also* CCA Standards Adopting Release, *supra* note 14, 81 FR at 70849. Clearing members are often members of larger financial networks, and the ability of a covered clearing agency to meet payment obligations to its members can directly affect its members' ability to meet payment obligations outside of the cleared market. Thus, management of liquidity risk may mitigate the risk of contagion between asset markets.

[113] *See* T+2 Proposing Release, *supra* note 1, 81 FR at 69258.

[114] *Id.*

[115] Kim at 1; SIFMA at 14; DTCC Letter at 4.

[116] Kim at 1.

[117] SIFMA at 14.

[118] SIFMA at 14.

[119] DTCC Letter at 2; IDC at 1; SIFMA at 15.

[120] T+2 Proposing Release, *supra* note 1, 81 FR at 69258.

[121] *Id.*

[122] ICI at 5.

[123] *Id.*

[124] SIFMA at 14.

[125] Bloomberg at 2–3.

[126] *Id.* at 2. The commenter also noted that its trade matching service will offer solutions to move manual clients to an automated work flow, which will minimize exceptions and reduce costly inefficiencies.

[127] *Id.* at 2–3.

[128] *See* Bloomberg at 2–3; SIFMA at 14; ICI at 5.

(b), (c), and (d) of Rule 15c6–1.[129] No commenters requested changes to those paragraphs, and the Commission is not amending those portions of the Rule.

One commenter requested clarification regarding the application of Rule 15c6–1(d) and the Commission's statement in the T+2 Proposing Release regarding what is sometimes referred to as the ''override provision'' of Rule 15c6–1(a) that permits broker-dealers to agree expressly at the time of the transaction to settlement beyond the standard settlement cycle.[130] Rule 15c6–1(d) provides that, for purposes of paragraphs (a) and (c) of the rule, parties to a contract shall be deemed to have expressly agreed to an alternate date for payment of funds and delivery of securities at the time of the transaction for a contract for the sale for cash of securities pursuant to a firm commitment offering if the managing underwriter and the issuer have agreed to such date for all securities sold pursuant to such offering and the parties to the contract have not expressly agreed to another date for payment of funds and delivery of securities at the time of the transaction.[131] In raising its concerns, the commenter expressed the belief that current market practices indicate that extended settlement periods beyond the standard settlement cycle are applied for the settlement of certain primary firm commitment offerings, particularly those in the convertible debt, preferred equity, options on securities and fixed income markets.[132] The commenter further observed that, in such markets, issuers, underwriters and the initial purchasers of those securities have increasingly relied on an extended settlement cycle pursuant to Rule 15c6–1(d) for many primary distributions.

In light of this belief regarding current market practices for many primary distributions, the commenter expressed concern over a statement made by the Commission in a footnote of the T+2 Proposing Release regarding the override provision in Rule 15c6–1(a). Specifically, in the T+2 Proposing Release, the Commission noted that at the time Rule 15c6–1(a) was adopted, the Commission stated its belief that the usage of the override provision of Rule 15c6–1(a) was intended to apply only to unusual transactions, such as seller's option trades that typically settle as many as sixty days after execution as specified by the parties to the trade at execution. In the T+2 Proposing Release, the Commission stated its preliminary belief that the use of this provision should continue to be applied in limited cases to ensure that the settlement cycle set by Rule 15c6–1(a) remains a standard settlement cycle.[133] In response to this statement, the commenter raised the concern that such a belief did not match actual market practices and may result in unintended negative consequences.[134] Accordingly, the commenter requested that, in adopting a T+2 standard settlement cycle, the Commission clarify that parties to a primary offering may continue the practice of agreeing to extended settlements in accordance with Rule 15c6–1 in appropriate cases, including those identified by the commenter. In addition, the commenter requested that the Commission clarify that the use of such extended settlements in primary offerings of these securities need not be limited to unusual circumstances or confined to situations where settlement on a T+2 basis is not feasible.[135]

The commenter's concern applies to two distinct, but related, parts of Rule 15c6–1. One part is the general override provision for extended settlement set forth in Rule 15c6–1(a) and the other part is the extended settlement provision specific to firm commitment primary offerings in Rule 15c6–1(d). In response to the commenter, the Commission notes that its statement, as expressed in the footnote in the T+2 Proposing Release, is only with respect to the override provision in Rule 15c6–1(a) and does not relate to the application of Rule 15c6–1(d) in the specific context of firm commitment offerings.[136]

C. Impact on Other Commission Rules and Guidance; Relevant No-Action and Exemptive Relief

The Commission stated in the T+2 Proposing Release that it reviewed its existing regulatory framework to consider the potential impact a T+2 standard settlement cycle may have on other Commission rules. Some Commission rules require market participants to perform certain regulatory obligations on settlement date or within a specified number of business days after the settlement date, or are otherwise keyed off of settlement date. Accordingly, shortening the standard settlement cycle to T+2 could have ancillary consequences for how market participants comply with these existing regulatory obligations. In response to the T+2 Proposing Release, several commenters identified specific rules, as well as related guidance and no-action and exemptive relief, on which a T+2 standard settlement cycle may have an impact.

1. Regulation SHO

In the T+2 Proposing Release, the Commission identified several provisions of Regulation SHO under the Exchange Act that may be impacted by the adoption of a T+2 settlement cycle. While not referencing specific settlement timeframes (*i.e.,* T+3), certain provisions of Regulation SHO key off of ''trade date'' and ''settlement date'' to determine the timeframes for compliance relating to sales of equity securities and fails to deliver on settlement date. In particular, Rule 204 of Regulation SHO (''Rule 204'') provides that a participant [137] of a registered clearing agency must deliver securities to a registered clearing agency for clearance and settlement on a long or short sale in any equity security by settlement date, or if a participant has a fail to deliver position, the participant shall, by no later than the beginning of regular trading hours on the applicable close-out date, immediately close out the fail to deliver position by borrowing or purchasing securities of like kind and quantity.[138] If a fail to deliver position results from a short sale, the participant must close out the fail to deliver position by no later than the beginning of regular trading hours on the settlement day following the settlement date.[139]

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[129] *See* T+2 Proposing Release, *supra* note 1, 81 FR at 69263–64.

[130] SIFMA at 19–20 (discussing footnote 153 of the T+2 Proposing Release). Specifically, Rule 15c6–1(a) allows a broker-dealer to agree that settlement will take place in a period longer. than the T+3 standard settlement cycle if expressly agreed to by the parties at the time of the transaction.

[131] 17 CFR 240.15c6–1(d). *See also* Prospectus Delivery; Securities Transaction Settlement, Exchange Act Release No. 35705 (May 11, 1995), 60 FR 26604, 26612 (May 17, 1995) (''Rule 15c6–1(d) Adopting Release'').

[132] SIFMA at 19.

[133] T+2 Proposing Release, *supra* note 1, 81 FR at 69257 n.153 (quoting T+3 Adopting Release, *supra* note 15, 58 FR at 52902).

[134] SIFMA at 20.

[135] *Id.*

[136] *See* Rule 15c6–1(d) Adopting Release, *supra* note 131, 60 FR at 26612.

[137] For purposes of Regulation SHO, the term ''participant'' has the same meaning as in Section 3(a)(24) of the Exchange Act, 15 U.S.C. 78c(a)(24). *See* Amendments to Regulation SHO, Exchange Act Release No. 60388 (July 27, 2009), 74 FR 38266, 38268 n.34 (July 31, 2009) (''Rule 204 Adopting Release'').

[138] 17 CFR 242.204(a). Under the current T+3 standard settlement cycle, the close-out for short sales is required by the beginning of regular trading hours on T+4. If a fail to deliver results from a long sale or a sale from bona fide market making activity, the participant must close-out the fail to deliver position by no later than the beginning of regular trading hours on the third consecutive settlement day following the settlement date *(i.e.,* T+6). 17 CFR 242.204(a)(1) and (a)(3) respectively.

[139] *Id.*

Shortening the standard settlement cycle to T+2 will also impact the application of Rule 200(g)(1) of Regulation SHO as it pertains to loaned but recalled securities.[140] Pursuant to Rule 200(g), a broker-dealer may only mark a sale as ''long'' if the seller is ''deemed to own'' the security being sold under paragraphs (a) through (f) of Rule 200,[141] and either (i) the security is in the broker-dealer's physical possession or control; or (ii) it is reasonably expected that the security will be in the broker-dealer's possession or control by settlement of the transaction.[142] In order to clarify the operation of Rule 200(g)(1) in the context of loaned but recalled securities, the Commission has stated that:

> . . . if a person that has loaned a security to another person sells the security and a bona fide recall of the security is initiated within two business days after trade date, the person that has loaned the security will be 'deemed to own' the security for purposes of Rule 200(g)(1), and such sale will not be treated as a short sale for purposes of Rule 204T. In addition, a broker-dealer may mark such orders as 'long' sales provided such marking is also in compliance with Rule 200(c) of Regulation SHO.[143]

Thus, broker-dealers that initiate bona fide recalls [144] on T+2 of loaned securities that sellers are ''deemed to own'' under paragraphs (a) through (f) of Rule 200 may currently mark such orders as ''long.'' [145] The Commission limited this application of Rule 200(g)(1) regarding the marking of sales of loaned securities ''long'' to those in which bona fide recalls are initiated on or before the business day preceding settlement date under the current T+3 settlement cycle because the Commission believed that, pursuant to industry standards for loaned but recalled securities, such recalls would likely be delivered within three business days after initiation of a recall.[146] As a result, in a T+3 environment, recalled securities would be available by T+5 to close out the fail to deliver on a ''long'' sale, or before the close-out for fails on sales marked ''long'' is otherwise required by Rule 204 (*i.e.,* no later than the beginning of regular trading hours on T+6).

The Commission sought comment generally on which, if any, Commission rules (including Regulation SHO) would need to be amended, and whether there is a need to provide interpretive guidance concerning any Commission rules, to accommodate a T+2 standard settlement cycle. In addition, the Commission sought comment on operational issues that might arise by the application of Rule 200(g) of Regulation SHO relating to loaned but recalled securities being recalled on T+1 instead of T+2. The Commission received five comment letters relevant to the discussion of Regulation SHO in the T+2 Proposing Release.[147]

Several commenters agreed with the Commission's preliminary views that shortening the settlement cycle to T+2 would impact other rules, and in particular, compliance with Regulation SHO.[148] Three commenters acknowledged that the close-out periods required by Rule 204 will accelerate because the Rule 204 close-out periods are measured from settlement date,[149] with one of the three raising the specific concern that the shorter timeframe may impact customers who do not make timely deliveries.[150] Despite this compression in the compliance timeframes under Rule 204, two of these commenters agreed with the Commission that because the text of Rule 204 does not explicitly reference T+3 as the standard ''settlement date,'' the rule is therefore unaffected by the amendment to Rule 15c6–1.[151] Three commenters also agreed that modification of existing interpretation or guidance concerning Regulation SHO was appropriate.[152] Two of these commenters specifically encouraged the Commission to revise the staff's Frequently Asked Questions on Regulation SHO on the Commission's Web site to clarify the implications of a move to T+2 settlement cycle and, in particular, that the close-out periods will shorten by a single day when measured from the trade date.[153]

Several commenters noted the potential consequences to the securities lending markets, particularly with respect to recalling loans to settle transactions.[154] One of these commenters also raised concern that there would likely be an operational impact to stock loan departments in terms of policies and procedures and a need to train staff to adjust to a shortened recall cycle.[155] Two of these commenters believed that security lenders, security borrowers, and service providers are currently addressing the impact of a shortened settlement cycle on their business models and trading strategies, and in particular, that the move to T+2 will shorten the loan recall period by one day.[156] However, one of these two commenters stated that industry participants recognize and support the need for the move to T+2 settlement, despite the implication that this move will necessarily shorten the recall period by one day, and are prepared to make the necessary operational adjustments to accommodate this shortened period.

[140] *See* 17 CFR 242.200(g).

[141] *See* 17 CFR 242.200(a)–(f).

[142] *See* 17 CFR 242.200(g)(1).

[143] *See* Rule 204 Adopting Release, *supra* note 137, 74 FR at 38270 at n.55 (citations omitted).

[144] Because a recall must be initiated by no later than the business day preceding the settlement date to be delivered prior to the required Rule 204 close-out, any cancellation or modification of a recall of a security would not constitute a bona fide recall.

[145] In the release adopting the ''naked'' short selling antifraud rule, Rule 10b–21, 17 CFR 240.10b–21, the Commission stated that ''a seller would not be making a representation at the time it submits an order to sell a security that it can or intends to deliver securities on the date delivery is due if the seller submits an order to sell securities that are held in a margin account but the broker-dealer has loaned out the shares pursuant to the margin agreement. Under such circumstances, it would be reasonable for the seller to expect that the securities will be in the broker-dealer's physical possession or control by settlement date.'' *See* ''Naked'' Short Selling Antifraud Rule, Exchange Act Release No. 58774 (Oct. 14, 2008), 73 FR 61666, 61672 (Oct. 17, 2008). Thus, a seller of securities would not be deemed to be deceiving a broker-dealer under Rule 10b–21 if the seller submits a sell order to an executing broker-dealer and informs the executing broker-dealer that the seller's shares are in the physical possession or control of a prime broker, but neither the seller nor the executing broker-dealer knows or has reason to know that the prime broker has loaned out the securities pursuant to a margin agreement. The Commission notes that this interpretation, which concerns whether a seller has made a misrepresentation regarding the deliverability of its securities in time for settlement, does not apply to rules other than Rule 10b–21.

[146] *See* Master Securities Loan Agreement (''MSLA''), Paragraph 6.1(a), discussing the termination of a loan of securities (''Unless otherwise agreed, either party may terminate a Loan on a termination date established by notice given to the other party prior to the Close of Business on a Business Day. The termination date established by a termination notice shall be a date no earlier than the standard settlement date that would apply to a purchase or sale of the Loaned Securities (in the case of notice given by Lender) or the noncash Collateral securing the Loan (in the case of a notice given by Borrower) entered into at the time of such notice, which date shall, unless Borrower and Lender agree to the contrary, be (i) in the case of Government Securities, the next Business Day following such notice and (ii) in the case of all other Securities, the third Business Day following such notice''). A sample MSLA can be found at *http://www.sec.gov/Archives/edgar/data/59440/000095014405003873/g94498exv10w1.htm.*

[147] FSR at 4; Fidelity at 3–4; SIFMA at 17–18; Thomson Reuters at 2; Guinn. One of these commenters expressed concerns about short selling generally and the negative effect of short selling on the market, but did not express a view on Regulation SHO. *See* Guinn.

[148] SIFMA at 17; Fidelity at 3–4; FSR at 4; Thomson Reuters at 2.

[149] SIFMA at 17; Fidelity at 3; FSR at 4.

[150] FSR at 4.

[151] SIFMA at 17; Fidelity at 3.

[152] SIFMA at 18; Fidelity at 3; Thomson Reuters at 2.

[153] SIFMA at 18; Fidelity at 3. *See also* Division of Market Regulation: Responses to Frequently Asked Questions Concerning Regulation SHO, available at *https://www.sec.gov/divisions/marketreg/mrfaqregsho1204.htm.*

[154] SIFMA at 18; Fidelity at 3; Thomson Reuters at 2.

[155] Thomson Reuters at 2.

[156] SIFMA at 18; Fidelity at 4.

These changes, this commenter believed, were anticipated as part of the move to T+2 and its clients have been preparing accordingly.[157] Both of these commenters recommended the Commission modify its interpretation or guidance regarding the recall period so that it reflects the consequences of the move to T+2.[158]

The Commission acknowledges that the amendment to Rule 15c6–1, as adopted, will operate to reduce the timeframes to effect a close-out under Rule 204. For example, the existing close-out requirement for fail to deliver positions resulting from short sales would be reduced from T+4 to T+3 based on the existing definition of settlement date in Rule 204.[159] Similarly, with regard to fails to deliver resulting from long sales or sales from bona fide market making activity, the existing close-out requirement would be reduced from T+6 to T+5. After considering comments, in particular that industry participants stated that they have either already anticipated the shortening of the Regulation SHO close-out period or are prepared to make the necessary operational adjustments, the Commission is not making any changes to the rule text of Regulation SHO.[160]

The Commission believes, however, that, to the extent that customers have not made timely deliveries and have caused a fail to deliver by a broker-dealer, any indirect impacts on such customers are warranted.[161] In addition, the Commission believes that a compliance date of September 5, 2017 will provide retail investors with time to become informed—either directly or through their broker-dealers—of the change to a T+2 standard settlement cycle and determine what changes to their own processes and behaviors may be necessary to participate in the market under a shorter settlement cycle.

With regard to commenters' request to modify guidance regarding the recall of loaned securities to reflect the consequences of the move to T+2, the adoption of a T+2 settlement cycle means that bona fide recalls initiated on T+2 as described above would likely not be delivered before the close-out requirement for fails on sales marked ''long'' under Rule 204 (*i.e.,* no later than the beginning of regular trading hours on T+5 under a T+2 settlement cycle).[162] As a result, the Commission is now clarifying that recalls of loaned securities that are initiated by no later than the settlement day before the settlement date may be marked ''long,'' provided the seller is otherwise net long in accordance with Rule 200(c) of Regulation SHO.[163] This clarification should help ensure that loaned but recalled securities would be available by T+4 before the close-out period for fails on sales marked ''long'' would otherwise be required by Rule 204 (*i.e.,* no later than the beginning of regular trading hours on T+5). Specifically, in a T+2 settlement cycle, a broker-dealer seeking to mark an order ''long'' for loaned but recalled securities would need to initiate a bona fide recall of a security on the settlement day before the settlement date (*i.e.,* T+1), provided the seller is also net long under Rule 200(c) of Regulation SHO. Otherwise, the general requirements of Rule 200 of Regulation SHO would govern, and sales of loaned securities could only be marked ''long'' if the seller is ''deemed to own'' the security being sold and either (i) the security is in the broker-dealer's physical possession or control; or (ii) it is reasonably expected that the security will be in the broker-dealer's possession or control by settlement of the transaction.[164]

2. Financial Responsibility Rules Under the Exchange Act

As noted in the T+2 Proposing Release, certain provisions of the broker-dealer financial responsibility rules under the Exchange Act[165] reference explicitly or implicitly the settlement date of a securities transaction. For example, Rule 15c3–3(m) provides that if a broker-dealer executes a sell order of a customer (other than an order to execute a sale of securities for which the seller does not own) and if for any reason whatever the broker-dealer has not obtained possession of the securities from the customer within 10 business days after the settlement date, the broker-dealer must immediately close the transaction with the customer by purchasing securities of like kind and quantity.[166] Settlement date is also referenced in paragraph (c)(9) of Exchange Act Rule 15c3–1,[167] which explains what it means to ''promptly transmit'' funds and ''promptly deliver'' securities within the meaning of paragraphs (a)(2)(i) and (a)(2)(v) of Rule 15c3–1.[168]

The Commission requested comment regarding the potential impact that shortening the standard settlement cycle from T+3 to T+2 may have on the ability of broker-dealers to comply with the financial responsibility rules. One commenter described certain requirements provided in Rule 15c3–3(m), and stated that it did not believe a change to that rule is required in order to support migration to T+2.[169] A second commenter stated that shortening the settlement cycle by one day will reduce the number of days (from 13 business days to 12 business days) a broker-dealer will have under Rule 15c3–3(m) to obtain possession of the securities or close out a customer's

[157] SIFMA at 18.

[158] SIFMA at 18; Fidelity at 4.

[159] *See* 17 CFR 242.204(g)(1).

[160] *See* 17 CFR 200 *et seq.*

[161] In the Rule 204 Adopting Release, the Commission recognized that requiring broker-dealers to close-out fails to deliver promptly after they occur may result in costs to certain participants, but believed that ''such costs are limited and are justified by the fact that the rule will continue our efforts to achieve our goals of reducing fails to deliver by maintaining the reductions in fails to deliver achieved by the adoption of temporary Rule 204T, as well as other actions taken by the Commission, and addressing potentially abusive 'naked' short selling and, thereby help restore, maintain, and enhance investor confidence in the markets.'' Rule 204 Adopting Release, *supra* note 137, 74 FR at 38286.

[162] The Commission notes that a participant may not offset the amount of its fail to deliver position with shares that the participant receives or will receive during the applicable close-out date (*i.e.,* during T+4 or T+6, as applicable, under a T+3 settlement cycle, or during T+3 or T+5, as applicable, under a T+2 settlement cycle) but must take affirmative action, by borrowing or purchasing securities of like kind and quantity, at or before the beginning of regular trading hours on the applicable close-out date. *See* Rule 204 Adopting Release, *supra* note 137, 74 FR at 38272.

[163] The staff's Frequently Asked Questions regarding Regulation SHO include some non-substantive introductory language that references specific settlement dates. In response to commenters' request that such language be updated following adoption of the shortened settlement cycle, the Commission directs the staff to review the document and make updates as necessary and appropriate.

[164] *See* 17 CFR 242.200(g).

[165] The term ''financial responsibility rules,'' for purposes of this release, includes any rule adopted by the Commission pursuant to Sections 8, 15(c)(3), 17(a), or 17(e)(1)(A) of the Exchange Act, any rule adopted by the Commission relating to hypothecation or lending of customer securities, or any rule adopted by the Commission relating to the protection of funds or securities. The financial responsibility rules include Exchange Act Rules 15c3–1 (17 CFR 240.15c3–1), 15c3–3 (17 CFR 240.15c3–3), 17a–3 (17 CFR 240.17a–3), 17a–4 (17 CFR 240.17a–4), 17a–5 (17 CFR 240.17a–5), 17a–11 (17 CFR 240.17a–11), and 17a–13 (17 CFR 240.17a–13).

[166] 17 CFR 240.15c3–3(m). However, paragraph (m) of Rule 15c3–3 provides that the term ''customer'' for the purpose of paragraph (m) does not include a broker or dealer who maintains an omnibus credit account with another broker or dealer in compliance with Rule 7(f) of Regulation T (12 CFR 220.7(f)).

[167] 17 CFR 240.15c3–1(c)(9).

[168] 17 CFR 240.15c3–1(a)(2)(i), (a)(2)(v). The concepts of promptly transmitting funds and promptly delivering securities are incorporated in other provisions of the financial responsibility rules, including paragraphs (k)(1)(iii), (k)(2)(i), and (k)(2)(ii) of Rule 15c3–3 (17 CFR 240.15c3–3(k)(1)(iii)), (k)(2)(i), (k)(2)(ii)), paragraph (e)(1)(A) of Rule 17a–5 (17 CFR 240.17a–5(e)(1)(A)), and paragraph (a)(3) of Rule 17a–13 (17 CFR 240.17a–13(a)(3)).

[169] SIFMA at 22.

transaction, possibly to the detriment of the customer.[170]

The Commission acknowledges that shortening the standard settlement cycle to T+2 will effectively reduce the number of days (from 13 business days to 12 business days) that a broker-dealer will have to obtain possession of customer securities before being required to close out a customer transaction under Rule 15c3–3(m). The Commission notes that the operations supporting the processing of customer orders by broker-dealers and the technology supporting those operations have developed substantially since 1972, when the Commission adopted paragraph (m) of Rule 15c3–3.[171] The Commission believes that these developments have resulted in a lower frequency of broker-dealers failing to obtain possession of the securities from their customers within 10 business days after the settlement date. Therefore, the Commission believes that these developments in technology and broker-dealer operations diminish the potential for customers to be adversely affected by the change from 13 business days to 12 business days. Accordingly, the Commission does not believe that the change from 13 business days to 12 business days will materially burden broker-dealers or their customers, and the Commission does not believe that it is necessary to amend Rule 15c3–3(m) at this time.

3. Exchange Act Rule 10b–10

Exchange Act Rule 10b–10 requires a broker-dealer to give or send a customer a written confirmation disclosing information relevant to the transaction ''at or before completion of [the] transaction.'' [172] Rule 10b–10 does not directly refer to the settlement cycle but instead defines the term at or before ''completion of the transaction'' by reference to Exchange Act Rule 15c1–1.[173] Generally, Rule 15c1–1 defines ''completion of the transaction'' to mean the time when: (i) A customer is required to deliver the security being sold; (ii) a customer is required to pay for the security being purchased; or (iii) a broker-dealer makes a bookkeeping entry showing a transfer of the security from the customer's account or payment by the customer of the purchase price.[174]

As the Commission noted in the T+2 Proposing Release, while a confirmation must be sent ''at or before completion'' of the transaction, Commission rules do not require that the customer receive a confirmation prior to settlement.[175] When adopting Rule 15c6–1 in 1993 to establish a T+3 standard settlement cycle, the Commission noted that broker-dealers typically send customer confirmations on the day after trade date.[176] In the T+2 Proposing Release, the Commission stated that it understands that, while broker-dealers may continue to send physical customer confirmations on the day after the trade date, broker-dealers may also send electronic confirmations to customers on the trade date. Accordingly, the Commission noted its preliminary belief that implementation of a T+2 settlement cycle will not create problems with regard to a broker-dealer's ability to comply with the requirement under Rule 10b–10 to send a confirmation ''at or before completion'' of the transaction, but acknowledged that broker-dealers will have a shorter timeframe to comply with the requirements of Rule 10b–10 in a T+2 settlement cycle.[177]

The Commission received one comment pertaining to certain no-action letters and exemptive relief that allow a broker-dealer providing a dividend reinvestment program (''DRIP'') to confirm automatic dividend reinvestments on monthly account statements in lieu of the trade-by-trade confirmations generally required by Rule 10b–10.[178] This commenter stated that moving to a T+2 standard settlement cycle does not directly conflict with the flexibility afforded by the relief that has been granted, but nonetheless questioned whether the recipients of such relief would be able to continue to rely on it given that the requesting letters typically include a detailed description of the program operations, including reference to their operation within a T+3 settlement cycle.[179]

The Commission agrees with the commenter that a firm should not be deemed to have departed from the procedures described in the applicable no-action letter or exemptive relief regarding the application of Rule 10b–10 to DRIP transactions solely by reason of the firm's transitioning to a shorter settlement cycle and operating the program on a T+2 settlement cycle.

4. Prime-Broker No-Action Letter

The Commission received two comment letters discussing a no-action letter issued by Commission staff known as the ''Prime Broker No-Action Letter.'' [180] In particular, the commenters noted that one of the important rights that prime brokers hold under the Prime Broker No-Action Letter is the right to ''disaffirm'' all previously affirmed institutional trades of a customer reported by executing brokers to the prime broker for clearance and settlement, without which the prime broker would be responsible for settling the transaction.[181] One commenter stated that, without industry-wide consensus to change common technology platforms currently used in the industry, the move to a T+2 settlement cycle is likely to shorten the cutoff time frame for prime brokers to disaffirm trades, with the cutoff time moving from T+2 to the morning of T+1.[182] The commenter further stated that moving to an earlier cutoff time for disaffirming trades decreases prime brokers' ability to manage their exposure to risk (vis-à-vis customers) that arises from margin calls issued by prime brokers on T+1.[183]

Both commenters acknowledged that changes to the Prime Broker No-Action Letter were not necessarily a prerequisite to shortening the standard settlement cycle to T+2. However, the commenters also noted that it would be helpful for the Commission to revisit this guidance to ensure that it reflects current market practices, including the shortened settlement cycle.[184] In addition, one commenter stated that certain prime brokers, together with Omgeo [185] and The Depository Trust & Clearing Corporation (''DTCC''), are meeting to discuss the potential impact of a move to a shorter settlement cycle on prime broker trade processing, particularly as it relates to the ability to effectuate a disaffirmation from a

[170] FSR at 3–4.

[171] *See* Exchange Act Release No. 9882 (November 17, 1972), 37 FR 25224 (November 29, 1972).

[172] 17 CFR 240.10b–10(a).

[173] *See* 17 CFR 240.10b–10(d)(1).

[174] *See* 17 CFR 240.15c1–1(b).

[175] T+2 Proposing Release, *supra* note 1, 81 FR at 69261.

[176] T+3 Adopting Release, *supra* note 15, 58 FR at 52908.

[177] T+2 Proposing Release, *supra* note 1, 81 FR at 69261.

[178] SIFMA at 21.

[179] *Id.*

[180] Prime Broker Committee, SEC No-Action Letter (Jan. 25, 1994), available at *https://www.sec.gov/divisions/marketreg/mr-noaction/pbroker012594-out.pdf* (discussed in SIFMA at 18–19 and Fidelity at 4).

[181] SIFMA at 18–19; Fidelity at 4. One commenter further noted that, generally, the prime broker's right to disaffirm has provided an incentive for speedy affirmation of such trades, as evidenced in the high prime-broker same-day affirmation rate, while still permitting the prime broker to manage its risk vis-à-vis the customer. SIFMA at 19.

[182] SIFMA at 19.

[183] *Id.*

[184] SIFMA at 17, 19; Fidelity at 4.

[185] Omgeo is an exempt clearing agency that currently provides matching and ETC services for the U.S. equity markets. *See* note 24 and accompanying text *supra.*

technology perspective.[186] Finally, the commenter stated that it supports ongoing efforts by Commission staff to evaluate potential updates to the Prime Broker No-Action Letter, but notes that industry groups are continuing their work to operationalize the processes contemplated in a T+2 environment and consider required changes to the agreements between prime brokers and executing brokers.[187]

The Commission acknowledges the commenters' views that the move to a T+2 standard settlement cycle may, in the absence of additional changes to industry practices, result in an earlier cutoff time for prime brokers to disaffirm trades of customers reported by executing brokers. Additionally, the Commission notes that the comments also suggest that the industry is currently considering how best to operationalize the relevant prime brokerage processes in a T+2 standard settlement cycle, and that the comments do not recommend specific changes or modifications to the Prime Broker No-Action Letter. The Commission expects that its staff will consider whether modifications to the Prime Broker No-Action letter are appropriate in connection with industry implementation of the T+2 standard settlement cycle.

5. Prospectus Delivery

In the T+2 Proposing Release, the Commission requested comment on whether the adoption of a T+2 settlement cycle would create any legal or operational concerns for issuers or broker-dealers related to their ability to comply with the prospectus delivery obligations under the Securities Act.[188] As noted in the T+2 Proposing Release, Securities Act Rule 172 implements an ''access equals delivery'' model that permits, with certain exceptions, final prospectus delivery obligations to be satisfied by the filing of a final prospectus with the Commission, rather than delivery of the prospectus to purchasers.[189]

Two commenters submitted letters encouraging the Commission to permit expanded use of electronic delivery of prospectuses and other materials that broker-dealers are required to provide to investors at or prior to settlement in accordance with various provisions of the securities laws.[190] One commenter expressed concern that, for securities that do not benefit from access equals delivery, the move to T+2 leaves little or no margin for operational difficulties that could delay the delivery of a prospectus despite a good faith effort by the broker-dealer.[191] In light of the potential for unforeseen or unanticipated disruption to this process, the commenter encouraged the Commission to provide for a reasonable means to comply or otherwise avoid non-compliance with prospectus and confirmation delivery requirements, given the operational constraints associated with physical delivery.[192]

The second commenter focused more generally on the use of electronic delivery.[193] The commenter believed that shareholder preferences and technology regarding internet usage has changed considerably over the years, and that the Commission should, in light of these changes, update its existing guidance on the use of electronic media.[194] The commenter further asserted that electronic delivery, particularly under a notice and access model, offers investors an opportunity to receive up-to-date information in a format to which they are accustomed and that is searchable. Lastly, the commenter stated that electronic delivery offers significant cost savings benefits to investors and to the intermediaries that support them and is environmentally friendly.[195]

The Commission received comments, which suggested that operational difficulties may arise if the standard settlement cycle is shortened to T+2 in instances where a broker-dealer is required to deliver a physical prospectus. Such commenters, however, did not identify specific instances where such operational difficulties could occur. If, during implementation, specific issues arise, the Commission encourages industry participants to bring them to the attention of the staff. Accordingly, the Commission is not at this time providing guidance on these requirements.

D. Exemptive Orders Excluding Certain Products From the Requirements of Rule 15c6–1(a)

To help facilitate the establishment of a T+3 settlement cycle, the Commission issued an exemptive order in 1995 granting a limited exemption for securities that do not generally trade in the U.S. by providing that all transactions in securities that do not have transfer or delivery facilities in the U.S. are exempt from the scope of Rule 15c6–1.[196] In the T+2 Proposing Release, the Commission requested comment as to whether this exemptive order should be modified or whether the conditions of that exemption were still appropriate.[197] The Commission did not receive any comment letters pertaining to this exemptive order and is not rescinding or modifying it.

The Commission also granted an exemption from the T+3 settlement cycle for contracts for the purchase or sale of any security issued by an insurance company (as defined in Section 2(a)(17) of the Investment Company Act) [198] that is funded by or participates in a ''separate account'' (as defined in Section 2(a)(37) of the Investment Company Act),[199] including

[186] SIFMA at 19.

[187] *Id.*

[188] T+2 Proposing Release, *supra* note 1, 81 FR at 69263. Section 5(b)(2) of the Securities Act makes it unlawful to deliver (*i.e.,* as part of settlement) a security ''unless accompanied or preceded'' by a prospectus that meets the requirements of Section 10(a) of the Act (known as a ''final prospectus''). 15 U.S.C. 77e(b)(2).

[189] T+2 Proposing Release, *supra* note 1, 81 FR at 69254, n.113. Under Securities Act Rule 172(b), an obligation under Section 5(b)(2) of the Securities Act to have a prospectus that satisfies the requirements of Section 10(a) of the Act precede or accompany the delivery of a security in a registered offering is satisfied only if the conditions specified in paragraph (c) of Rule 172 are met. Paragraph (d) of Rule 172 provides that Rule 172 does not apply to any offerings of investment companies or business development companies, or to a business combination, or any offering registered on Form S–8 (17 CFR 239.16b).

Under Securities Act Rule 174(h), a dealer may satisfy any obligation to deliver a prospectus pursuant to Section 4(a)(3) of the Securities Act (other than for blank check companies) by complying with the provisions of Securities Act Rule 172. 17 CFR 230.174(h). (In 2012, Congress enacted the Jumpstart Our Business Startups Act, which re-designated Section 4(3) of the Securities Act as Section 4(a)(3). Public Law 112–106, Sec. 201(b)(1), (c)(1), Apr. 5, 2012, 126 Stat 306.)

[190] SIFMA at 20–21; Fidelity at 5–6; *see also* note 188 *supra.*

[191] SIFMA at 20. In support of that concern, the commenter noted that the current process to effectuate delivery of such documentation often entails a number of steps that occur late in the day and overnight to ensure compliance.

[192] *Id.* at 21. As an example, the commenter suggested that the Commission could provide guidance indicating that it will consider a broker-dealer to have met the requirement to deliver both a physical prospectus and a confirmation prior to settlement when the broker-dealer has made a good faith effort to deliver the physical prospectus and confirmation prior to settlement and delivers the prospectus and confirmation as soon as practicable thereafter. The commenter also suggested that the Commission could provide guidance indicating that when a confirmation is sent in advance of the prospectus as a result of an unforeseen delay, the confirmation will not be deemed a ''nonconforming'' prospectus in violation of Section 5 of the Securities Act if the dealer has made a good faith effort to deliver the prospectus and the prospectus is delivered as soon as practicable thereafter. *Id.*

[193] Fidelity at 5–6.

[194] *Id.*

[195] *Id.* at 6.

[196] *See* Securities Transactions Settlement, Exchange Act Release No. 35750 (May 22, 1995), 60 FR 27994, 27995 (May 26, 1995) (granting exemption for certain transactions in foreign securities).

[197] *See* T+2 Proposing Release, *supra* note 1, 81 FR at 69262.

[198] 15 U.S.C. 80a–2(a)(17).

[199] 15 U.S.C. 80a–2(a)(37).

a variable annuity contract or a variable life insurance contract, or any other insurance contract registered as a security under the Securities Act.[200]

In the T+2 Proposing Release, the Commission requested comment as to whether the conditions set forth in the existing exemption for registered insurance products continued to be appropriate, or whether the exemption should be modified.[201] Two commenters stated that the conditions for the Commission's existing exemption for registered insurance products are still appropriate, and as such, the exemption should be preserved.[202] In support of that view, both of these commenters argued that the conditions and considerations set forth in the 1995 exemptive order apply as much today as in 1995 and are even more applicable in a T+2 environment.[203] According to one of these commenters, insurance companies issuing registered insurance products are still subject to specific federal and state law requirements, as noted in the Commission's exemptive order.[204] Further, this commenter noted that no relevant market or regulatory conditions have changed, and that no relevant features of insurance products have changed since the Commission determined that the insurance exemption was justified in light of such requirements.[205] In addition, the commenter noted that registered insurance products do not trade in the same manner as most other securities, they are not listed on exchanges or sold in the OTC market, and these products do not present the credit, market, liquidity, and systemic risks that Rule 15c6–1 is designed to address.[206] The other commenter believed that it would be helpful for the Commission to include language in the adopting release noting that the exemptive order for insurance products remains intact and is not affected by the proposed amendment.[207]

The Commission has carefully considered the comments and is not rescinding or modifying the exemptive order for registered insurance products.

IV. Compliance Date

In the T+2 Proposing Release, the Commission noted that in setting a compliance date it would need to provide sufficient time to allow for broker-dealers, clearing agencies, and other market participants to plan for, implement, and test changes to their systems, operations, policies, and procedures in a manner that would allow for an orderly transition to a T+2 standard settlement cycle. The Commission also noted that the Industry Steering Group (''ISC'') [208] that was formed to facilitate the transition to a T+2 settlement cycle published, in conjunction with Deloitte & Touche LLP, the *T+2 Industry Implementation Playbook* (''T+2 Playbook''), which set forth an implementation timeline with milestones and dependencies, as well as detailed remedial activities that impacted market participants should consider to prepare for a migration to a T+2 settlement cycle.[209] This implementation timeline provides for a transition to a T+2 settlement cycle in the third quarter of 2017. Subsequent to publication of the T+2 Playbook, the ISC identified September 5, 2017 as the target date for the transition to a T+2 settlement cycle.[210]

In response to the T+2 Proposing Release, several commenters supported September 5, 2017 as the compliance date for the proposed changes to Rule 15c6–1(a), and no commenters suggested an alternative compliance date for the Commission's consideration or otherwise addressed the compliance date issue.[211] In identifying September 5, 2017, two commenters noted that they attempted to determine the lowest risk date on which to migrate to a shorter settlement cycle, and that considerations included, holidays, high-volume events such as index rebalancing, options expiration, and scheduled corporate action events, among others.[212] One commenter cited the advantages of September 5, 2017 being the Tuesday following Labor Day, which would provide market participants with a three-day weekend to implement and test system and procedural changes.[213]

Several commenters noted work that already has been performed by market participants to implement a T+2 standard settlement cycle on a schedule consistent with the target implementation date set forth by the ISC.[214] As a means of ensuring that market participants continue to work towards implementation of a T+2 standard settlement cycle on this timeline, several commenters encouraged the Commission to adopt the amendment to Rule 15c6–1(a) by March 2017 and set a compliance date consistent with the target date set by the ISC, which would provide market participants with certainty that the transition to a shorter settlement cycle would occur as well as provide time to implement and test changes necessary to support a transition to a shorter settlement cycle.[215]

One commenter specifically noted that the industry-wide testing approach developed by the ISC suggested that a six-month test period prior to the compliance date would be required to meet industry requirements.[216] This commenter also expressly supported Commission action in March 2017, stating that swift, decisive leadership by the Commission to adopt the T+2 settlement cycle by March 2017 would guarantee industry participants continue their efforts to complete the operational and technological changes

[200] *See* Securities Transactions Settlement, Exchange Act Release No. 35815 (June 6, 1995), 60 FR 30906, 30907 (June 12, 1995) (granting exemption for transactions involving certain insurance contracts). Certain insurance contracts, including variable annuity contracts and variable life insurance contracts, have been deemed to be securities under the Securities Act. *SEC* v. *Variable Annuity Life Ins. Co. of America,* 359 U.S. 65 (1959) (variable annuity contracts are ''securities'' which must be registered with the Commission under the Securities Act); Adoption of Rule 3c–4 under the Investment Company Act of 1940, Exchange Act Release No. 9972, 1 SEC Docket 17 (Jan. 31, 1973) (a public offering of variable life insurance contracts involved an offering of securities required to be registered under the Securities Act).

[201] *See* T+2 Proposing Release, *supra* note 1, 81 FR at 69262.

[202] CAI at 1; Fidelity at 4.

[203] CAI at 3; Fidelity at 4.

[204] Specifically, this commenter stated that the Commission's order noted certain federal and state law requirements on insurers to: (1) Assess the purchaser's insurability and mortality risk, which often involves time consuming medical examinations, laboratory tests, and review of medical records; (2) conduct a review to determine any additional requirements imposed by the Internal Revenue Code or ERISA; and (3) preserve and implement, as required by state law in many jurisdictions, a purchaser's right to return or cancel an insurance contract for any reason within a specified time of delivery (so-called ''free look'' requirements). CAI at 3 (citing to Release Nos. 33–7177; 34–35815 (June 6, 1995), 60 FR 30906 (June 12, 1995)).

[205] CAI at 3.

[206] *Id.* at 4.

[207] Fidelity at 4–5.

[208] DTCC, in collaboration with the Investment Company Institute and the Securities Industry and Financial Markets Association, and other market participants, formed the ISC in October 2014. *See* Press Release, DTCC, Industry Steering Committee and Working Group Formed to Drive Implementation of T+2 in the U.S. (Oct. 2014), *http://www.dtcc.com/news/2014/october/16/ust2.aspx.*

[209] Deloitte & Touche LLP & ISC, T+2 Industry Implementation Playbook (Dec. 2015), *http://www.ust2.com/pdfs/T2-Playbook-12-21-15.pdf.*

[210] The ISC announced in March 2016 that it identified September 5, 2017 as a target implementation date. *See* Press Release, ISC, US T+2 ISC Recommends Move to Shorter Settlement Cycle On September 5, 2017 (Mar. 7, 2016), *http://www.ust2.com/pdfs/T2-ISC-recommends-shorter-settlement-030716.pdf.*

[211] CCMA at 2–3; DTCC Letter at 3–4; Fidelity at 2; FIF at 1; ICI at 6; IDC at 2; SIFMA at 2, 3–4; Thomson Reuters at 2; WFA at 3.

[212] DTCC Letter at 3–4; SIFMA at 5.

[213] DTCC Letter at 4.

[214] DTCC Letter at 4; SIFMA at 14; Thomson Reuters at 1–2.

[215] Fidelity at 2; FIF at 1; ICI at 6; SIFMA at 2.

[216] SIFMA at 4–5.

required to move to a shorter settlement cycle.[217] This commenter also noted that testing within individual firms and between firms has already begun, with industry-wide testing scheduled to begin on February 13, 2017.[218] One commenter noted that formal projects to migrate its systems to T+2 have been created across multiple product lines, and that it is well on-track to have all required changes completed and positioned to support industry testing scheduled to take place in February 2017.[219]

In light of the scope of industry preparation highlighted by the commenters as necessary for a successful transition by all market participants to a T+2 standard settlement cycle, the Commission believes that September 5, 2017 is an appropriate compliance date, and an earlier date could result in disruptions to the securities markets if market participants are not able to complete the changes necessary to support a T+2 standard settlement cycle on a shorter timeline. Commenters supporting a September 5, 2017 compliance date indicated that industry preparations have continued to proceed since the March 2016 announcement by the ISC of the target implementation date and are anticipated to be completed in time for a transition to a shorter settlement cycle by September 5, 2017.[220]

The Commission received two comment letters referencing certain regulations of the Federal Deposit Insurance Corporation (''FDIC'') and the Office of the Comptroller of the Currency (''OCC'') which use language similar to the language in Rule 15c6–1(a) being amended today.[221] One commenter described these as rules that should be amended in light of the move to a T+2 settlement cycle. The commenter noted that the industry is in contact with each of these regulatory entities regarding these rules and stated its belief that none of these anticipated changes should present an obstacle to the migration currently underway.[222] The other commenter noted that these rules are virtually identical to Rule 15c6–1 and requested that the Commission coordinate with both the FDIC and OCC on changes to their rules that match the proposal.[223] Commission staff is in contact and coordination with staff from these agencies, and Commission staff also understands that staff from these agencies are in contact with the industry regarding these rules and the shift to a T+2 settlement cycle. These commenters did not identify a specific problem or impediment arising from the existence of these rules, and the Commission does not see the existence of these rules as an impediment to adopting the amendment to Rule 15c6–1(a).

Therefore, the Commission believes that September 5, 2017 is an appropriate compliance date by which the transition to a T+2 standard settlement cycle should be completed. The Commission believes that a compliance date of September 5, 2017 provides sufficient time for broker-dealers, clearing agencies, SROs and other market participants, including retail investors,[224] to plan for, implement, promulgate new rules, and test changes to systems, operations, policies, and procedures.

V. Further Reductions in the Settlement Cycle

In the T+2 Proposing Release, the Commission requested comment on whether additional reductions in the settlement cycle could be achieved.[225] As also discussed in Parts III.A.3.c and VI.D.1 and 2, a few commenters urged the Commission to adopt a T+1 or shorter standard settlement cycle citing benefits similar to those of a T+2 standard settlement cycle, but greater in magnitude.[226] One commenter asserted that the Commission should move without undue delay toward a T+1 standard based on STP.[227] Another commenter noted the proposed rule change did not go far enough to treat all investors equally and thought the settlement cycle should be 24 hours as a maximum timeframe and one hour at a minimum.[228] Another commenter stated that it was time to implement ''instantaneous'' settlement of trades, noting that the practical impact of longer settlement cycles is that if he is ''actively trading,'' the commenter would not have access to the proceeds of a transaction until it settled and therefore had to keep funds ''un-invested'' at all times.[229] As discussed in further detail in Part VI.D.1, several commenters argued against a move to a settlement cycle shorter than T+2, citing the industry coordination challenges, higher investment costs, and the longer time needed to recoup the investment.[230]

The Commission believes at this time that a successful transition to a settlement cycle shorter than T+2 would require comparatively larger investments by market participants to adopt new systems and processes.[231] However, the Commission notes that a move to a T+1 standard settlement cycle could have similar qualitative benefits of market, credit, and liquidity risk reduction for market participants as a move to a T+2 standard settlement cycle. Accordingly, the staff of the Commission will undertake to submit a report to the Commission no later than three years from the compliance date of Rule 15c6–1(a) as amended herein. This report will include, but not be limited to an examination of:

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[217] *Id.* at 2.

[218] *Id.* This commenter also noted that testing of changes related to a transition to a T+2 standard settlement cycle is being coordinated with testing associated with other industry initiatives, including, among others, Regulation Systems Compliance and Integrity and the implementation of the Consolidated Audit Trail. *Id.* at 9.

[219] DTCC Letter at 4.

[220] SIFMA at 2, 4–5, 9; DTCC Letter at 4; Thomson Reuters at 1–2; WFA at 2–3; ICI at 6. With respect to the preparedness of SROs for a transition to a shortened standard settlement cycle, the Commission received one comment noting that, although several SROs already had published changes or proposed changes to their rules to accommodate a shortened settlement cycle, there are still certain SRO rules requiring amendment to recognize the T+2 settlement cycle. Such rules may specifically establish or reference a T+3 settlement cycle, but they also may not contain specific references to T+3 and instead establish time frames based on the settlement date of a trade. *See* SIFMA at 6 (identifying three particular rules that specifically reference a T+3 settlement cycle). The Commission already has approved certain SRO rule changes to accommodate a T+2 settlement cycle. *See, e.g.,* NYSE Arca, Inc.; Order Granting Approval of a Proposed Rule Change to Conform to Proposed Amendment to Rule 15c6–1(a) under the Securities Exchange Act of 1934 to Shorten the Standard Settlement Cycle from T+3 to T+2, Exchange Act Release No. 79732 (Jan. 4, 2017); MSRB; Order Granting Approval of a Proposed Rule Change Consisting of Proposed Amendments to Rules G–12 and G–15 to Define Regular-Way Settlement for Municipal Securities Transactions as Occurring on a Two-Day Settlement Cycle and Technical Conforming Amendments, Exchange Act Release No. 77744 (April 29, 2016).

[221] *See* SIFMA at 6 and FSR at 5 (identifying FDIC Rule 344.7(a) and OCC Rule 12.9(a) as using language mirroring that in Rule 15c6–1).

[222] SIFMA at 6.

[223] FSR at 5. This commenter also requested that the Commission work with the FDIC and OCC to ensure that they amend their equivalent rules sufficiently in advance of the T+2 compliance date. *Id.* at 2.

[224] As previously discussed, one commenter noted concerns about the impact of a T+2 settlement cycle on investors that do not make timely deliveries and the potential implications for Exchange Act Rules 15c3–3(m) and 204. *See* notes 150 and 170 *supra.* The Commission believes that a compliance date of September 5, 2017 will provide retail investors with time to become informed—either directly or through their broker-dealers—of the change to a T+2 standard settlement cycle and determine what changes to their own processes and behaviors may be necessary to participate in the market under a shorter settlement cycle.

[225] *See* T+2 Proposing Release, 81 FR at 69262.

[226] CFA at 1–4; Spydell.

[227] CFA at 1, 3.

[228] Spydell.

[229] Parker.

[230] Thomson Reuters at 2, WFA at 3, MFA at 2, and DTCC Letter at 4.

[231] See Part VI.D.1.

(i) The impact of today's amendment to Rule 15c6–1(a) to establish a T+2 standard settlement cycle on market participants, including investors;

(ii) the potential impacts associated with movement to a shorter settlement cycle beyond T+2;

(iii) the identification of technological and operational improvements that can be used to facilitate a movement to a shorter settlement cycle; and

(iv) cross-market impacts (including international developments) related to the shortening of the settlement cycle to T+2.

Given that the report will be based on data and information available to Commission staff, the Commission invites academics, market participants, fellow regulators and other interested parties to provide data and information that will be useful in informing the staff's study.

VI. Economic Analysis

The Commission has prepared an economic analysis in connection with the amendment to Rule 15c6–1(a) that it is adopting today. The economic analysis begins with a discussion of the risks inherent in the standard settlement cycle for securities transactions and the impact that shortening the standard settlement cycle may have on the management and mitigation of these risks. Next, the economic analysis summarizes and considers comments that address the costs and benefits of a shorter settlement cycle, as well as comments about the economic analysis provided in the T+2 Proposing Release. Finally, the economic analysis discusses certain market frictions that potentially impair the ability of market participants to shorten the settlement cycle in the absence of a Commission rule. The discussion regarding settlement cycle risks and market frictions frames the Commission's analysis of the rule's benefits and costs in later sections. The Commission believes that the amendment to Rule 15c6–1(a) will ameliorate these market frictions and thus will reduce the risks inherent in settlement.

After discussing the aforementioned risks and market frictions, the economic analysis then provides a baseline of current practices. The economic analysis then discusses the likely economic effects of the amendment, such as the costs and benefits of the adopted amendment as well as its effects on efficiency, competition, and capital formation.[232] The Commission has, where possible, attempted to quantify the economic effects expected to result from the amendment.

A. Background

The amendment to Rule 15c6–1(a) prohibits a broker-dealer from effecting or entering into a contract for the purchase or sale of a security (other than an exempted security, government security, municipal security, commercial paper, bankers' acceptances, or commercial bills) that provides for payment of funds and delivery of securities later than the second business day after the date of the contract unless otherwise expressly agreed to by both parties at the time of the transaction, subject to certain exceptions provided in the rule. Several commenters addressed the impact that the length of the settlement cycle would have on credit, market, liquidity, and counterparty risk in financial markets.[233] In its analysis of the economic impacts of the amendment to Rule 15c6–1(a), the Commission has considered the risks that market participants, including broker-dealers, clearing agencies, and institutional and retail investors, are exposed to during the settlement cycle and how those risks change with the length of the cycle.

The settlement cycle spans the length of time between when a trade is executed and when cash and securities are delivered to the seller and buyer, respectively. During this period of time, each party to a trade faces the risk that its counterparty may fail to meet its obligations to deliver cash or securities. When a counterparty defaults or fails to meet its obligations to deliver cash or securities, the trade must be closed out. Regardless of whether the non-defaulting party chooses to enter into a new transaction as a result of the failed trade, it is likely to bear costs as a result of its counterparty's failure to deliver the cash or securities. For example, a party that chooses to enter into a new transaction must find a new counterparty to contract with and must trade at a price that may not be the same as the price of the original trade.[234] The length of the settlement cycle influences this risk in two ways: (i) Through its effect on counterparty exposures to price volatility, and (ii) through its effect on the value of outstanding obligations.

First, the duration of the settlement timeframe affects whether and how much asset prices can move further away from the price of the original trade. For example, if daily asset returns are statistically independent, then the variance of prices over t days is equal to t multiplied by the daily variance of asset returns. Thus when daily returns are independent and daily variance of returns is constant, the variance of returns increases linearly as the length of the settlement cycle increases.[235] In other words, if more time passes between when a trade is executed and when a counterparty defaults, the variance of prices will be larger, and the more likely it will be that difference between execution price and the price ultimately paid will be larger. For example, if a buyer whose counterparty defaults or fails to meet its obligations to deliver securities decides to enter into a new transaction to buy the same security, the buyer faces the risk that the price of the security will have deviated from the price of the original transaction. The price could increase or decrease, but in the event of a price increase, the buyer must pay more than the original execution price.[236]

Second, the length of the settlement cycle directly influences the quantity of unsettled transactions between trade date and settlement date. For example, assuming no change in transaction volumes, the volume of unsettled trades under a T+2 standard settlement cycle is two-thirds the volume of unsettled trades under a T+3 standard settlement cycle. Thus, in the event of a counterparty default, counterparties would have to enter into a new transaction for, or otherwise close out, two-thirds of the number of trades in a

[232] Section 3(f) of the Exchange Act requires the Commission, when engaging in rulemaking that requires the Commission to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

Further, Section 23(a)(2) of the Exchange Act requires the Commission, when adopting rules under the Exchange Act, to consider the impact that any new rule would have on competition, and provides that the Commission shall not adopt any rule that would impose a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. 15 U.S.C. 78w(a)(2).

[233] Bloomberg at 1; CFA at 3; DTCC Letter at 2; Fidelity at 1; FIF at 2; FSI at 2; ICI at 4–5; IDC at 1; MFA at 1–2; SIFMA at 1.

[234] As described in Part II.c.1.a above, in its role as a CCP, NSCC becomes counterparty to both initial parties to a transaction. In the case of cleared transactions, while each initial party is not exposed to the risk that their original counterparty defaults, both are exposed to the risk of CCP default. Similarly, the CCP is exposed to the risk that either initial party defaults.

[235] More generally, because total variance over multiple days is equal to the sum of daily variances and variables related to the correlation between daily returns, total variance increases with time so long as daily returns are not highly negatively correlated. *See e.g.,* Morris H. DeGroot, *Probability and Statistics* 216 (Addison-Wesley Publishing Co. 1986).

[236] Similarly, a seller whose counterparty fails faces similar risks with respect to the security, albeit in opposite directions.

T+2 standard settlement cycle, as compared to the number of trades requiring a new trade or close-out in a T+3 standard settlement cycle. For a given adverse move in prices, the financial losses resulting from counterparty default will be two-thirds as large under a T+2 standard settlement cycle than under a T+3 standard settlement cycle.[237]

Market participants manage and mitigate the risks associated with settlement in a number of specific ways that are discussed in Part III.A of this release. Generally, these methods entail costs to market participants. In some cases, these costs may be explicit. For instance, broker-dealers may explicitly charge customers for providing them with the implicit option to default on payment or delivery obligations. Other costs are implicit, such as the opportunity cost of assets posted as collateral, or limitations on the amount of credit that broker-dealers are willing to provide their customers.

Shortening the standard settlement cycle will shorten the amount of time that market participants are exposed to credit and market risks. In addition, a shorter standard settlement cycle will reduce liquidity risks that could arise between derivative and cash markets by allowing investors to obtain the proceeds of securities transactions sooner. These are risks that affect all market participants, are difficult to diversify away, and require resources to manage and mitigate. CCPs and clearing members require participants to post financial resources in order to secure members' obligations to deliver cash and securities to the CCP. To the extent that collateral is posted to CCPs and clearing members for the purposes of mitigating the risks of the clearance and settlement process, that may represent an allocative inefficiency.

This allocative inefficiency could take on several forms. First, CCP financial resources that are used to mitigate the risks of the clearance and settlement process could have been put to alternative uses, such as investment in less liquid assets. Second, assets that are valuable because they are particularly suited to meeting financial resource obligations may have been better allocated to market participants that hold these assets for their fundamental risk and return characteristics. These allocative inefficiencies may reduce capital formation. Reducing the financial risks associated with the overall clearance and settlement process would thereby reduce the amount of collateral required to mitigate these risks, which would reduce the costs that market participants bear to manage and mitigate these risks and the allocative inefficiencies that may stem from risk management practices.[238] Hence, the Commission believes that these benefits generally provide securities market participants with incentives to shorten the settlement cycle.

However, the Commission acknowledges that certain market frictions may prevent securities markets from shortening the settlement cycle in the absence of regulatory intervention. The Commission has considered two key market frictions related to investments required to implement a shorter settlement cycle. The first is a coordination problem that arises when some of the benefits of actions taken by market participants are only realized when other market participants take a similar action. For example, in the absence of the amendment to Rule 15c6–1(a), if a particular institutional investor makes a technological investment necessary to reduce the time it requires to match and allocate trades while its clearing broker-dealers do not, the institutional investor cannot fully realize the benefits of its investment, as the settlement process is limited by the capabilities of the clearing agency for trade matching and allocation. More generally, when each market participant must bear the costs of an upgrade for the entire market to enjoy a benefit, the result is a coordination problem, where each market participant is reluctant to make the necessary investments until it can be sure that others will also do so. In general, these coordination problems may be resolved if all parties can credibly commit to the necessary infrastructure investments. Regulatory intervention is one possible way of coordinating market participants to undertake the investments necessary to support a shorter settlement cycle. Such intervention could come through Commission rulemaking and/or through a coordinated set of SRO rule changes. Two commenters made similar arguments, discussing the need for ''regulatory certainty'' (*i.e.,* Commission action) to encourage market participants to make the necessary investments for a T+2 standard settlement cycle.[239]

In addition to coordination problems, a second market friction related to the settlement cycle involves situations where one market participant's investments result in benefits for other market participants. For example, if a market participant invests in a technology that reduces the error rate in its trade matching, not only does it benefit from fewer errors, but its counterparties and other market participants may also benefit from more robust trade matching. However, because market participants do not necessarily take into account the benefits that may accrue to other market participants (also known as ''externalities'') when market participants choose the level of investment in their systems, the level of investment in technologies that reduce errors might be less than efficient for the entire market. More generally, underinvestment may result because each participant only takes into account its own costs and benefits when choosing which infrastructure improvements or investments to make, and does not take into account the costs and benefits that may accrue to its counterparties, other market participants, or other financial markets.

Moreover, because market participants that incur similar costs to enable a move to a shorter settlement cycle may nevertheless experience different levels of economic benefits, there is likely heterogeneity across market participants in the demand for a shorter settlement cycle. This heterogeneity may exacerbate coordination problems and underinvestment. Market participants that do not expect to receive direct benefits from settling transactions earlier may lack incentives to invest in infrastructure to support a shorter settlement cycle and thus could make it difficult for the market as a whole to realize the overall risk reduction that the Commission believes a shorter settlement cycle will bring.

For example, the level and nature of settlement risk exposures vary across different types of market participants. A market participant's characteristics and trading strategies can influence the level of settlement risk it faces. For example, large market participants will generally be exposed to more settlement risk than small market participants because they trade in larger volume. However, large market participants also trade across a larger variety of assets and may face less idiosyncratic risk in the event of

[237] One commenter specifically commented on how the volume of obligations might affect the consequences of adverse price movements, stating that reducing the total volume and value of obligations in the settlement system at any given time would help minimize the systemic consequences of serious market disruptions. *See* SIFMA at 15.

[238] *See infra* Part II.C.1.a for further discussion of financial resources collected to mitigate and manage financial risks; *see also infra* Part III.A for more information about risk reduction.

[239] Fidelity at 2; FIF at 1; ICI at 6; SIFMA at 2.

counterparty default if the portfolio of trades that would have to be reestablished is diversified.[240] As a corollary, a market participant who trades a single security in a single direction against a given counterparty may face more idiosyncratic risk in the event of counterparty failure than a market participant who trades in both directions with that counterparty.

Further, the extent to which a market participant experiences any economic benefits that may stem from a shortened standard settlement cycle likely depends on the market participant's relative bargaining power. While large intermediaries, such as clearing broker-dealers, may experience direct benefits from a shorter settlement cycle as a result of being required to post less collateral with a CCP, they may not pass on the entirety of these cost savings to their customers. In addition, to the extent that broker-dealers do not effectively compete for customers through fees and services as a result of market power, they may limit the portion of these cost savings passed through to their customers.[241]

In light of the above, the Commission believes that the amendment to Rule 15c6–1(a), which will shorten the standard settlement cycle from T+3 to T+2, will mitigate the market frictions of coordination and underinvestment described above. The Commission also believes that mitigating these market frictions and moving to a shorter standard settlement cycle will reduce the risks inherent in the clearance and settlement process.

The shorter standard settlement cycle will also have an impact on the level of operational risk that exists in the U.S. clearance and settlement system as a result of existing clearance and settlement processes. By shortening the settlement cycle by one day, market participants involved in a securities transaction will have one less day to resolve any errors that might occur in the clearance and settlement process. As a result, tighter operational timeframes and linkages required under a shorter standard settlement cycle might introduce new fragility that could impact financial market participants, specifically an increased risk that operational issues could impact transaction processing and related securities settlement.[242] One commenter noted that a T+2 settlement cycle would motivate market participants to tighten their operational processes.[243] While the Commission acknowledges that a shorter standard settlement cycle may increase risks associated with the clearance and settlement process by creating tighter operational timeframes, the operational improvements made by market participants to facilitate a shorter standard settlement cycle may offset these increases in risk. In addition, even in the absence of such operational improvements, the Commission believes that the transition to a shortened settlement cycle is appropriate given the reduction in credit, market, and liquidity risks associated with a shorter settlement cycle.

One commenter noted its view more generally that shortened settlement periods will result in an increased likelihood of computerized trading that could destabilize the market.[244] The Commission notes that amending the length of the settlement cycle will affect the speed at which post-trade processes occur, but has not observed any evidence to suggest that a shortened standard settlement cycle will alter the incidence of computerized trading or how such activity influences market stability.

Market participants may incur initial costs for the investments necessary to comply with a shorter standard settlement cycle.[245] However, these costs may differ across market participants and these differences may exacerbate coordination problems. First, differences in operational costs across CCP members may be driven by member transaction volume, and so the extent to which many of the upgrades necessary for a T+2 standard settlement cycle are optimal for a member to adopt unilaterally may depend on its transaction volume. For example, certain upgrades necessary for a T+2 standard settlement cycle may result in economies of scale, where large clearing members are able to comply with the amendment to Rule 15c6–1(a) at a lower per transaction cost than smaller members. As a result, larger members might take a short time to recover their initial costs for upgrades; smaller members with lower transaction volumes might take longer to recover their initial cost outlays and might be more reluctant to make the upgrades in the absence of the amendment to Rule 15c6–1(a).[246] On the other hand, smaller members might be more dependent on third-party service providers, and may thus bear fewer direct costs.

In addition, the Commission acknowledges that the upgrades necessary to implement a shorter standard settlement cycle may produce indirect economic effects. We analyze some of these indirect effects, such as the impact on competition and third-party service providers, in the following section. However, other indirect effects, such as the ancillary benefits and costs mentioned in the October 2012 Boston Consulting Group study (''BCG Study''),[247] of investments and changes to market practices that enhance the speed and efficiency of the settlement process, but which are unrelated to a shorter standard settlement cycle, are not within the scope of this economic analysis.

B. Baseline

In order to perform its analysis of the likely economic effects of the amendment to Rule 15c6–1(a), as well as the amendment's effects on efficiency, competition, and capital formation, the Commission uses as its baseline the clearance and settlement process as it exists today. In addition to the current process that was described in the T+2 Proposing Release, the baseline includes rules adopted by the Commission, including rules governing the clearance and settlement system, SRO rules,[248] as well as rules adopted

[240] *See* Ananth Madhavan, Morris Mendelson & Junius W. Peake, *Risky Business: The Clearance and Settlement of Financial Transactions* (Wharton Sch. Rodney L. White Ctr. for Fin. Research, Working Paper No. 40–88, 1988); *see also* John H. Cochrane, *Asset Pricing* (Princeton University Press rev. ed. 2009), at 15 (defining the idiosyncratic component of any payoff as the part that is uncorrelated with the discount factor).

[241] *See infra* Parts VI.C.1.

[242] For example, the ability to compute an accurate net asset value (''NAV'') within the settlement timeframe is a key component for settlement of ETF transactions. *See, e.g.,* Barrington Partners, An Extraordinary Week: Shared Experiences from Inside the Fund Accounting Systems Failure of 2015, at 10 (Nov. 2015), *http://www.mfdf.org/images/uploads/blog_files/SharedExperiencefromFASystemFailure2015.pdf.*

[243] *See* ICI at 5. Specifically, the commenter noted that it expected institutional investors to improve the quality of settlement instructions and static settlement data maintenance and increase automation and STP rates with their broker-dealers and custodian banks, resulting in higher on-time affirmed, confirmed, and settled trades.

[244] *See* Gellert; Part III.A.3 *supra.*

[245] *See infra* Part VI.C.2.

[246] *See* SIFMA at 13 (observing that the largest asset managers reported lower estimated costs than medium asset managers).

[247] *See* The Boston Consulting Group, Cost Benefit Analysis of Shortening the Settlement Cycle, (Oct. 2012) (''BCG Study'') at 8, *http://www.dtcc.com/~/media/Files/Downloads/WhitePapers/CBA_BCG_Shortening_the_Settlement_Cycle_October2012.pdf.*

As noted in the T+2 Proposing Release, DTCC commissioned in May 2012 a study to examine and evaluate the necessary investments and resulting benefits associated with a shortened settlement cycle for U.S. equities and corporate and municipal bonds. The resulting BCG Study analyzed the costs, benefits, opportunities and challenges associated with shortening the settlement cycle in the U.S. securities markets to either T+1 or T+2, respectively. *See* T+2 Proposing Release, *supra* note 1, 81 FR at 69254.

[248] *See id.* at 69247.

by regulators in other jurisdictions to regulate securities settlement in those jurisdictions.[249] The following section discusses several additional elements of the baseline that are relevant for the economic analysis of the amendment to Rule 15c6–1(a) because they are related to the risks and costs faced by market participants that clear and settle securities transactions subject to the rule and the specific means by which market participants manage these risks.

1. Central Counterparties

One way NSCC mitigates the credit, market, and liquidity risk it assumes through its novation and guaranty of trades is via multilateral netting of the delivery and payment obligations across clearing members. By offsetting these obligations, NSCC reduces the aggregate market value of securities and cash it must deliver to clearing members after the trade is novated and the trade guaranty attaches. While netting reduces NSCC's settlement obligations by an average of 97% on each day, it does not fully eliminate the risk posed by unsettled trades because NSCC is still responsible for payments or deliveries on trades it cannot fully net. NSCC reported clearing an average of approximately $805 billion each day during the third quarter of 2016,[250] suggesting an average net settlement obligation of approximately $24.2 billion each day.[251] Based on these estimates, and given that, under current practices, NSCC's trade guaranty currently attaches at midnight on T+1, the average notional value of unsettled trades approaches $48.4 billion.[252] However, as mentioned previously, the Commission recently approved a rule change proposed by NSCC that will accelerate the NSCC trade guaranty from midnight of T+1 to the point of trade comparison and validation for bilateral submissions or to the point of trade validation for locked-in submissions. Under the current standard settlement cycle, this accelerated trade guaranty effectively increases the length of time that NSCC's trade guaranty attaches from two days to three days. For the purposes of determining a baseline to compare the effects of this amendment, the Commission has assumed that NSCC's accelerated trade guaranty will already be in effect when this amendment takes effect.[253]

The aggregate settlement risk faced by NSCC is also a function of the probability of clearing member default. NSCC manages the risk of clearing member default by imposing certain financial requirements on its members. For example, as of 2016, broker-dealer members of NSCC that are not municipal securities brokers and do not intend to clear and settle transactions for other broker-dealers must have excess net capital over the minimum net capital requirement imposed by the Commission in the amount of $500,000.[254] Further, each NSCC member is subject to ongoing membership requirements, including a requirement to furnish NSCC with assurances of the member's financial responsibility and operational capability, including, but not limited to, periodic reports of its financial and operational condition.[255]

In addition to managing the risk of member default, CCPs also take steps to mitigate the risks and adverse indirect effects generated by member default. For example, in the normal course of business, a CCP's exposure to market or liquidity risk is hedged because it expects to receive every security from a seller it is obligated to deliver to a buyer and it expects to receive every payment from a buyer that it is obligated to deliver to a seller. However, when a clearing member defaults, the CCP can no longer expect the defaulting member to deliver securities or make payments. CCPs mitigate this risk by requiring clearing members to make contributions of financial resources to the CCP. As of Q3 2016, NSCC's clearing fund deposits totaled approximately $5.4 billion, of which $5.2 billion was cash deposits.[256] The level of financial resources a CCP requires clearing members to post may be based on, among other things, the market and liquidity risk of a member's portfolio, the correlation between the assets in the member's portfolio and the member's own default probability, and the liquidity of the collateral assets.

2. Market Participants—Investors, Broker-Dealers, and Custodians

As discussed in Part II.C.2 above, broker-dealers serve both retail and institutional customers. Aggregate statistics from the Board of Governors of the Federal Reserve System suggest that at the end of the third quarter of 2016, U.S. households held approximately 40% of the value of corporate equity outstanding, and 50% of the value of mutual fund shares outstanding, which provide a general picture of the share of holdings by retail investors.[257]

In the 2015 annual FOCUS reports, approximately 4,100 broker-dealers filed reports [258] with FINRA. These firms varied in size, with median assets of approximately $700,000, average assets of nearly $1 billion dollars and total assets for all broker-dealers approximately $4.1 trillion. Thirty broker-dealers held approximately 80% of the assets of broker-dealers overall, with total assets of approximately $3.4 trillion, indicating a high degree of concentration in the industry. Of the 4,100 filers, 186 reported self-clearing public customer accounts, while 1,497 reported acting as an introducing broker and sending orders to another broker-dealer for clearing. Broker-dealers that identified themselves as self-clearing broker-dealers, had on average, higher total assets than broker-dealers that identified themselves as introducing broker-dealers. While the decision to self-clear may be based on many factors, this evidence is consistent with the argument that there may currently be high barriers to entry for providing clearing services as a broker-dealer.

Clearing broker-dealers face liquidity risks as they are obligated to make payments to clearing agencies on behalf of customers who purchase securities. As discussed in more detail below, from the perspective of clearing broker-dealers, customers have an option to default on their payment obligations, particularly when the price of a purchased security declines during the settlement cycle.[259] Therefore, clearing broker-dealers take measures to reduce the risks posed by their customers. For example, clearing broker-dealers may require customers to contribute financial resources in the form of margin to margin accounts, to pre-fund purchases in cash accounts, or may restrict the use of unsettled funds. These

[249] *See id.* at 69255.

[250] *See* NSCC CPMI–IOSCO Quantitative Disclosure Results—Q3 2016, at 14 (Jan. 2017), *http://www.dtcc.com/legal/policy-and-compliance.*

[251] Calculated as $805 billion × 3% = $24.2 billion.

[252] Calculated as $24.2 billion × 2 days between attachment of the trade guaranty and settlement on T+3 = $48.4 billion.

[253] *See supra* Part II.C.1.a.

[254] *See* NSCC Rules and Procedures, *supra* note 24, Rule 2A, Section 1A, and Addendum B, Section 1.B.1.

[255] *See, e.g., id.,* Rule 15, Section 2.

[256] *See* NSCC Unaudited Condensed Consolidated Financial Statements for Q3 2016, available at *http://www.dtcc.com/~/media/Files/Downloads/legal/financials/2016/NSCC-Unaudited-Condensed-Consolidated-Financial-Statements-3Q-2016.pdf.*

[257] *See* Board of Governors of the Federal Reserve System, Statistical Release Z.1 Financial Accounts of the United States, Flow of Funds, Balance Sheets, and Integrated Macroeconomic Accounts, at tables L.223 and L.224 (Third Quarter 2016), *https://www.federalreserve.gov/releases/z1/current/z1.pdf*

[258] FOCUS Reports, or ''Financial and Operational Combined Uniform Single'' Reports, are monthly, quarterly, and annual reports that broker-dealers generally are required to file with the Commission and/or SROs pursuant to Exchange Act Rule 17a–5, 17 CFR 240.17a–5.

[259] *See id.*

measures are in many ways analogous to measures taken by clearing agencies to reduce and mitigate the risks posed by their clearing members. In addition, clearing broker-dealers may also mitigate the risks posed by customers by charging higher transaction fees that reflect the value of the customer's option to default, thereby causing customers to internalize the cost of the default options inherent in the settlement process.[260] While not directly reducing the risk posed by customers to clearing members, these higher transaction fees at least allocate to customers the direct expected costs of customer default.

Another way the settlement cycle may affect transaction prices is related to the use of funds during the settlement cycle. To the extent that buyers may use the cash to purchase securities during the settlement cycle for other purposes, they may derive value from the length of time it takes to settle a transaction. Two studies have tested this hypothesis, and found that sellers demand compensation for the benefit that buyers receive from deferring payment during the settlement cycle and that this compensation is incorporated in equity returns.[261]

The settlement process also exposes investors to certain risks. The length of the settlement cycle sets the minimum amount of time between when an investor places an order to sell securities and when the customer can expect to have access to the proceeds of that sale. Investors take this into account when they plan transactions to meet liquidity needs. For example, under T+3 settlement, investors who experience liquidity shocks, such as unexpected expenses that must be met within two business days, could not rely on obtaining funding solely through a sale of securities because the proceeds of the sale would be available in three business days, at the earliest, and not two. One possible strategy to deal with such a shock under T+3 settlement would be to borrow cash on day two to meet payment obligations on day two and repay the loan on day three with the proceeds from a sale of securities, incurring the cost of one day of interest on the short-term loan. Another strategy that investors may use is to hold financial resources to insure themselves from liquidity shocks.

3. Investment Companies

As noted above,[262] shares issued by investment companies settle on different timeframes. ETFs and certain closed-end funds generally settle on T+3. By contrast, options and mutual funds generally settle on a T+1 basis, except for certain retail funds which settle on T+3.[263] Mutual funds that settle on a T+1 basis currently face liquidity risk as a result of a mismatch between the timing of mutual fund transaction order settlements and the timing of fund portfolio security transaction order settlements. Mutual funds may manage these particular liquidity needs by, among other methods, using cash reserves, back-up lines of credit, or interfund lending facilities to provide cash to cover the settlement mismatch.[264] As of the end of 2015, there were 9,156 open-end funds (excluding money market funds, but including ETFs).[265] The assets of these funds were approximately $14.95 trillion.[266] Within these figures, there were 1,521 ETFs with $2.1 trillion in assets.[267]

Under Section 22(e) of the Investment Company Act, an open-end fund is required to pay shareholders who tender shares for redemption within seven days of their tender.[268] In addition to this requirement, as a practical matter open-end funds that are sold through broker-dealers meet redemptions within three days because broker-dealers are subject to Rule 15c6–1(a). Furthermore, Rule 22c–1 under the Investment Company Act,[269] the ''forward pricing'' rule, requires funds, their principal underwriters, and dealers to sell and redeem fund shares at a price based on the current NAV next computed after receipt of an order to purchase or redeem fund shares, even though cash proceeds from purchases may be invested or fund assets may be sold in subsequent days in order to satisfy purchase requests or meet redemption obligations.

4. The Current Market for Clearance and Settlement Services

As described in Part II.C.1 above, two affiliated entities, NSCC and DTC, facilitate clearance and settlement for transactions that currently settle on a T+3 settlement cycle. There is limited competition in the provision of the services that these entities provide. NSCC is the CCP for trades between broker-dealers involving equity securities, corporate and municipal debt, and UITs for the U.S. market. DTC is the CSD that provides custody and book-entry transfer services for the vast majority of securities transactions in the U.S. market that are cleared through NSCC. There is also limited competition in the provision of Matching/ETC services—three entities that have obtained exemptions from registration as a clearing agency from the Commission to operate as Matching/ETC Providers.[270]

Broker-dealers compete to provide services to retail and institutional customers. Based on the large number of broker-dealers, there is likely a high degree of competition among broker-dealers. However, the markets that broker-dealers serve may be segmented along lines relevant for the analysis of competitive impacts of the amendment to Rule 15c6–1(a). As noted above, the set of broker-dealers that indicate they clear public customer accounts by self-clearing tends to be smaller than the set of broker-dealers that indicate they do so by introducing and not self-clearing. This could mean that introducing broker-dealers compete more intensively for customers than clearing broker-dealers. Further, clearing broker-dealers must meet requirements set by NSCC and DTC, such as financial obligations, including clearing fund requirements. These requirements may represent barriers to entry for clearing broker-dealers, limiting competition among these entities.

Competition for customers impacts how the costs associated with the clearance and settlement process are allocated among market participants. In managing the expected costs of risks from their customers and the costs of compliance with SRO and Commission rules, clearing broker-dealers decide what fraction of these costs to pass

[260] *See infra* Parts VI.B.4 and VI.C.5(5).

[261] *See* Victoria Lynn Messman, *Securities Processing: The Effects of a T+3 System on Security Prices* (May 2011) (Ph.D. dissertation, University of Tennessee—Knoxville), *http://trace.tennessee.edu/utk_graddiss/1002/*; Josef Lakonishok & Maurice Levi, *Weekend Effects on Stock Returns: A Note,* 37 J. Fin. 883 (1982), *https://www.jstor.org/stable/pdf/2327716.pdf*; Ramon P. DeGennaro, *The Effect of Payment Delays on Stock Prices,* 13 J. Fin. Res. 133 (1990), *http://onlinelibrary.wiley.com/doi/10.1111/j.1475-6803.1990.tb00543.x/abstract.*

[262] *See supra* note 78.

[263] Retail funds that currently settle on T+3 will be required to settle on T+2 as a result of this amendment, and are thus part of the broader set of securities that will be required to settle on T+2. The costs and benefits stemming from a shorter settlement cycle for these retail funds are included in our analysis in Section VI.C.

[264] *See* Open-End Fund Liquidity Risk Management Programs; Swing Pricing; Re-Opening of Comment Period for Investment Company Reporting Modernization Release, Investment Company Act Release No. 31835 (Sept. 22, 2015), 80 FR 62274, 62285 n.100 (Oct. 15, 2015), and Investment Company Liquidity Risk Management Programs Release No. 32315 (Oct. 13, 2016), 81 FR 82142 (Nov. 18, 2016) at 82143 n.9.

[265] *See* ICI, 2015 Investment Company Fact Book (2016), at 176, 183 (''2016 ICI Fact Book''), *http://www.ici.org/pdf/2016_factbook.pdf.*

[266] *See id.* at 174, 182.

[267] *See id.* at 182–83.

[268] *See* 15 CFR 270.80a–22(e).

[269] 17 CFR 270.22c–1.

[270] *See supra* note 24.

through to their customers in the form of fees and margin requirements, and what fraction of these costs to bear themselves. The level of competition that a clearing broker-dealer faces for customers will dictate the extent to which it is able to exercise market power in passing through these costs to their customers; a clearing broker-dealer with little competition for customers is likely to pass on a majority of its costs to its customers, while one with heavy competition is likely to choose to bear the cost internally to avoid losing market share.

In addition, several factors related to clearance and settlement impact the current levels of efficiency and capital formation in the securities market. First, at a general level, market participants occupying various positions in the clearance and settlement system must post or hold liquid financial resources, and the level of these financial resources is a function of the length of the settlement cycle. For example, NSCC collects clearing fund contributions from members to ensure that it has sufficient financial resources in the event that one of its members defaults on its obligations to NSCC. As discussed above, the length of the settlement cycle is one determinant of the size of NSCC's exposure to clearing members. As another example, mutual funds may manage liquidity needs by, among other methods, using cash reserves, back-up lines of credit, or interfund lending facilities to provide cash. These liquidity needs, in turn, are related to the mismatch between the timing of mutual fund transaction settlements and the timing of fund portfolio security transaction settlements.

Holding assets solely for the purpose of mitigating counterparty risk or liquidity needs that arise as part of the settlement process could represent an allocative inefficiency, as discussed above, both because firms that are required to hold these assets might prefer to put them to alternative uses and because these assets may be more efficiently allocated to other market participants who value them for their fundamental risk and return characteristics rather than for their collateral value. To the extent that intermediaries bear costs as a result of inefficient allocation of collateral assets, these may be reflected in transaction costs.

The settlement cycle may also have more direct impacts on transaction costs. As noted above, clearing broker-dealers may charge higher transaction fees to reflect the value of the customer's option to default, and these fees may cause customers to internalize the cost of the default options inherent in the settlement process. However, these fees also make transactions costly and may, at the margin, influence the willingness of market participants to efficiently share risks or to supply liquidity to securities markets. Taken together, inefficiencies in the allocation of resources and risks across market participants may serve to impair capital formation.

Finally, market participants may make processing errors in the clearance and settlement process.[271] Industry participants have commented that a lack of automation and manual processing have led to processing errors.[272] Although some of these errors may be resolved within the settlement cycle and not result in a failed trade, those that are not may result in failed trades, which appear in the failure to deliver data.[273] Further, market participants may incorporate the likelihood that processing errors result in delays in payments or deliveries into securities prices.[274] Although errors and the correction of errors are a part of current market practices in a clearance and settlement system, the Commission does not have, nor did commenters provide, data available to estimate the rate of processing errors and the time needed to correct these processing errors.

C. Analysis of Benefits, Costs, and Impact on Efficiency, Competition, and Capital Formation

1. Benefits

Several commenters noted that the amendment would reduce the risks associated with the settlement cycle.[275] One commenter stated that by shortening the settlement cycle, the amendment would reduce both the aggregate market value of all unsettled trades and the amount of time that CCPs or the counterparties to a trade may be subject to market and credit risk from an unsettled trade.[276] Shortening the settlement cycle by one day would reduce the time that unsettled transactions are guaranteed by NSCC. Under our baseline assumption that NSCC's accelerated trade guaranty would be in effect by the effective date of this amendment, a T+2 standard settlement cycle would reduce the time that unsettled transactions are guaranteed by NSCC from three days to two days, by approximately one-third. Based on published statistics from the third quarter of 2016,[277] and holding average dollar volumes constant, the maximum aggregate notional value of unsettled transactions at NSCC under the accelerated trade guaranty would be approximately $72.6 billion,[278] and would fall to $48.4 billion under a T+2 standard settlement cycle, a reduction of $24.2 billion.[279] Two commenters noted that a shorter settlement cycle would reduce the market risks associated with price movements during the settlement cycle.[280] A market participant that experiences counterparty default and enters into a new transaction under a T+3 settlement cycle is exposed to more market risk than would be the case under a T+2 settlement cycle. As a result, market participants that are exposed to market, credit, and liquidity risks would be exposed to less risk under a T+2 settlement cycle. To the extent that these transactions currently give rise to counterparty risk exposures between mutual funds and broker dealers, these exposures may decrease as a consequence of a shorter settlement cycle. The Commission notes that industry participants have suggested further benefits of a T+2 standard settlement cycle relative to a T+3 standard settlement cycle as a result of reduced procyclicality of counterparty exposures and clearing fund requirements, and presented an analysis consistent with such benefits.[281] These benefits depend on the assumptions that underlie models of counterparty exposures and clearing fund requirements.

A portion of the savings by intermediaries from less costly risk

[271] *See, e.g.,* Omgeo, Mitigating Operational Risk and Increasing Settlement Efficiency through Same Day Affirmation (SDA), at 12 (Oct. 2010), *http://www.omgeo.com/page/sda_whitepaper.*

[272] *See* DTCC Letter at 2; IDC at 1; SIFMA at 15.

[273] *See* T+2 Proposing Release, *supra* note 1, 81 FR at 69245; *see also* Statement by The Depository Trust & Clearing Corporation, U.S. Securities and Exchange Commission, Securities Lending and Short Sales Roundtable, at 3 (Sept. 30, 2009), *https://www.sec.gov/comments/4-590/4590-32.pdf.*

[274] *See* Messman, *supra* note 261.

[275] Bloomberg at 1; CFA at 3; DTCC Letter at 2; Fidelity at 1; FIF at 2; FSI at 2; ICI at 4–5; IDC at 1; MFA at 1–2; SIFMA at 1.

[276] *DTCC Letter at 2.*

[277] *See* CPMI–IOSCO Quantitative Disclosure Results—Q3 2016, *supra* note 250, at 14.

[278] NSCC has not yet implemented these rule changes. *See* note 27 *supra.*

[279] The Commission notes that if NSCC's accelerated trade guaranty is not in effect by the effective date of this amendment, then the time that unsettled transactions are guaranteed by NSCC would change from two days to one day. In this case, the aggregate notional value of unsettled transactions at NSCC would fall from $48.4 billion under a T+3 standard settlement cycle to $24.2 billion under a T+2 settlement cycle. However, the overall reduction to the aggregate notional value of unsettled transactions at NSCC would remain the same, a reduction of $24.2 billion.

[280] ICI at 5; DTCC Letter at 2.

[281] *See* DTCC, DTCC Recommends Shortening the U.S. Trade Settlement Cycle at 2–3 (Apr. 2014), *http://www.ust2.com/industry-action/.*

management under a T+2 standard settlement cycle relative to a T+3 standard settlement cycle may flow through to investors. Intermediaries such as broker-dealers may mitigate settlement risks through collateral requirements on their customers in the form of securities or cash. Such protection is likely to require less collateral to manage settlement risks when settlement cycles are shorter. To the extent that lower collateral needs result in lower collateral requirements, investors may be able to profitably redeploy financial resources once used to satisfy collateral requirements by, for example, converting them into less-liquid assets that offer higher returns in exchange for bearing additional liquidity risk. Several commenters identified additional benefits that investors may experience from a shorter settlement cycle through their intermediaries.[282] One commenter noted in the context of mutual funds that funds, as investors in the markets, would benefit from a shortened settlement cycle, and those benefits would flow to fund shareholders.[283] Another commenter noted that investors are exposed to their broker-dealer from the point of trade execution to settlement, further stating that if the broker-dealer were to go out of business during that time, the investor may be forced to re-execute the trade at a new market price.[284] The same commenter suggested that a shorter settlement cycle would reduce the charges and fees imposed by clearing broker-dealers on introducing broker-dealers.[285]

Industry participants might also individually benefit through reduced clearing fund deposit requirements. In the T+2 Proposing Release, the Commission cited industry estimates of cost savings associated with reduced clearing fund contributions. In response to the T+2 Proposing Release, one commenter cited an industry impact analysis estimating that projected reduction in average daily clearing fund requirements associated with two-day settlement cycle under NSCC's accelerated trade guaranty would be $533 million, or about 9% of average clearing fund requirements.[286] In addition, a shorter settlement cycle might reduce liquidity risk by allowing investors to obtain the proceeds of their securities transactions sooner. Reduced liquidity risk may be a benefit to individual investors, but it may also reduce the volatility of securities markets by reducing liquidity demands in times of adverse market conditions, potentially reducing the correlation between market prices and the risk management practices of market participants.[287] Several commenters included statements consistent with the view that shortening the settlement cycle would benefit investors by reducing liquidity demands and clearing capital requirements, and improving use of capital.[288]

In addition, the harmonization of the standard settlement cycle in the U.S. with settlement cycles in foreign markets that settle transactions on a T+2 settlement cycle may reduce the need for some market participants engaging in cross-border and cross-asset transactions to hedge risks stemming from mismatched settlement cycles and hence reduce related financing and borrowing costs, resulting in additional benefits. For example, under the current T+3 settlement cycle, a market participant selling a security in U.S. equity markets to fund a purchase of securities in European markets would face a one day lag between settlement in Europe and settlement in the U.S. The participant could choose between bearing an additional day of market risk in the European trading markets by delaying the purchase by a day, or funding the purchase of European shares with short-term borrowing. Additionally, because FX transactions generally settle on a T+2 settlement cycle,[289] a market participant who expects to use the proceeds from the sale of securities transactions that settle on the standard settlement cycle in the U.S. to fund the purchase of securities in Europe would also be faced with a choice between bearing an additional day of currency risk due to the need to purchase Euros as part of the transaction, or to incur the cost related to hedging away this risk in the forward market. Twelve commenters agreed that a T+2 standard settlement cycle would align the U.S. securities settlement cycle with several non-U.S. markets that have already moved to a T+2 settlement cycle, as well as markets that are planning or considering a move to a T+2 settlement cycle.[290]

The benefits of harmonized settlement cycles may also accrue to mutual funds. As described above,[291] transactions in mutual fund shares typically settle on a T+1 basis even when transactions in the securities purchase and sold by the fund settle on a T+3 basis. As a result, there is a two-day mismatch between when these funds make payments to shareholders that redeem shares and when they receive cash proceeds for portfolio securities they sell.[292] Two commenters noted that the risk reduction benefits of a T+2 standard settlement cycle would also flow to mutual fund transactions. One commenter noted that a T+2 settlement cycle would reduce the funding gap between settlement of a mutual fund's portfolio securities and the settlement of shares, improving cash management for funds to meet redemptions.[293] The other commenter stated that a T+2 settlement cycle would harmonize the settlement time for securities held by open-ended funds (*i.e.,* mutual funds) with the settlement time for shares of mutual funds, which would enhance funds' cash management for meeting redemptions.[294]

The Commission believes that exceptions to Rule 15c6–1(a) set forth in paragraphs (b), (c), and (d) of Rule 15c6–1 are unlikely to substantially reduce the benefits of a shorter settlement cycle for most securities transactions. Market participants that rely on Rule 15c6–1(b) to transact in limited partnership interests that are not listed on an exchange or for which quotations are not disseminated through an automated quotation system of a registered securities association are likely to continue to make use of that exception under the amendment to Rule 15c6–1(a). Similarly, market participants involved in offerings that currently

[282] IDC at 1–2; SIFMA at 15–16.

[283] IDC at 1–2.

[284] SIFMA at 16.

[285] SIFMA at 15.

[286] SIFMA at 10. The commenter also noted that in the absence of the NSCC accelerated trade guaranty, the same impact analysis estimated a projected reduction in average daily clearing fund requirements of nearly $1.36 billion, or about 25% of average clearing fund requirements.

[287] *See* Peter F. Christoffersen & Francis X. Diebold, *How Relevant is Volatility Forecasting for Financial Risk Management?,* 82 Rev. Econ. & Stat. 12 (2000), *http://www.mitpressjournals.org/doi/abs/10.1162/003465300558597#.V6xeL_nR-JA.* The paper shows that volatility can be predicted in the short run, and concludes that short run forecastable volatility would be useful for risk management practices.

[288] Fidelity at 1; FSI at 3; IDC at 1; Newill at 1.

[289] *See, e.g.,* John W. McPartland, *Foreign exchange trading and settlement: Past and present,* The Federal Reserve Bank of Chicago, Essays on Issues No. 223 (Feb. 2006), *https://www.chicagofed.org/~/media/publications/chicago-fed-letter/2006/cflfebruary2006-223-pdf.pdf.*

[290] DTCC Letter at 2 and 3; FIF at 3; FSI at 3; ICI at 5–6; IDC at 1; MFA at 2; Newill at 1; SIFMA at 16; STA at 1–2; Thomson Reuters at 3; WFA at 3; Wee at 1–2.

[291] *See supra* note 78.

[292] Retail funds which currently settle on T+3, however, already have harmonized settlement cycles with their underlying securities. As this amendment requires a T+2 settlement cycle for both these retail funds and their underlying securities, these retail funds would not see benefits stemming from a reduction in settlement cycle mismatch between retail fund shares and underlying securities.

[293] ICI at 4–5.

[294] IDC at 1–2.

settle by the fourth business day under Rule 15c6–1(c) will likely continue to settle by T+4. There may be transactions covered by Rules 15c6–1(b) and (c) that in the past did not make use of these exceptions because they settled within three business days, but that may require use of these exceptions under the amendment because they require more than two days to settle. However, these markets are opaque, and the Commission does not have, nor did commenters provide, data on transactions in these categories that currently settle within three days but that might make use of this exception under the amendment.

In addition, the Commission notes that market participants involved in certain transactions will not experience substantial benefits related to reducing the maximum number of days required to settle most securities transactions. Specifically, market participants involved in transactions which now voluntarily settle in two days or less may experience fewer risk reduction benefits as a result of the amendment to Rule 15c6–1(a) than market participants that currently settle in the standard three business days.

Finally, the extent to which different types of market participants experience any benefits that stem from the amendment to Rule 15c6–1(a) may depend on their market power. Market participants that have a greater ability to negotiate with customers or service providers may be able to retain a larger portion of the operational cost savings from a shorter settlement cycle than others, as they may be able to use their market power to avoid passing along the cost savings to their clients.

2. Costs

The Commission believes that compliance with a T+2 standard settlement cycle will involve initial fixed costs to update systems and processes.[295] The Commission has used input from comment letters and industry studies to quantify these costs to the extent possible in Part VI.C.5 below.

The operational costs associated with the amendment to Rule 15c6–1(a) for different market participants might vary depending on each participant's degree of direct or indirect inter-connectivity to the clearance and settlement process, regardless of size.[296] For example, clearing broker-dealers that internally manage more of their own post-trade processes will directly incur more of the upfront operational costs associated with the amendment to Rule 15c6–1(a), because they must directly undertake more of the upgrades and testing necessary for a T+2 standard settlement cycle. As mentioned in Part VI.C.5, other market participants might outsource the clearance and settlement of their transactions to third-party providers of back-office services. One commenter noted that the use of third party service bureaus would reduce the costs necessary to support a T+2 standard settlement cycle.[297] The exposures to the operational costs associated with shortening the standard settlement cycle will be indirect to the extent that third-party service providers pass through the costs of infrastructure upgrades to their customers. The degree to which customers bear operational costs depends on their bargaining position relative to third-party providers. Large customers with market power may be able to avoid internalizing these costs, while small customers in a weaker negotiation position relative to service providers may bear the bulk of these costs.

Further, changes to initial and ongoing operational costs may make some self-clearing market participants alter their decision to continue internally managing the clearance and settlement of their transactions. Entities that currently internally manage their clearance and settlement activity may prefer to restructure their businesses to rely instead on third-party providers of clearance and settlement services that may be able to amortize the initial fixed cost of upgrade across a much larger volume of transaction activity.

The way that different market participants are likely to bear costs as a result of the amendment to Rule 15c6–1(a) may also vary based on their business structure. For example, a shorter standard settlement cycle will require payment for securities that settle regular-way by T+2 rather than T+3 (subject to the exceptions in the rule). Generally, regardless of current funding arrangements between investors and broker-dealers, removing a day between execution and settlement would mean that broker-dealers could choose between requiring investors to fund the purchase of securities one day earlier while extending the same level of credit they do under T+3 settlement, or providing an additional day of funding to investors. In other words, broker-dealers could pass through some of the costs of a shorter standard settlement cycle by imposing the same shorter cycle on investors, or they could pass these costs on to investors by raising transactions fees to compensate for the additional day of funding the broker-dealer may choose to provide. The extent to which these costs get passed through to customers may depend on, among other things, the market power of the broker-dealer. At most, the broker-dealer might pass through the entire initial investment cost to its customers, while if the broker-dealer faces perfect competition for its customers, the broker-dealer may not pass along any of these costs to its customers.[298]

Retail investors and the broker-dealers that serve them may experience the burden of an earlier payment requirement differently from broker-dealers with more institutional clients or large custodian banks because of the way retail investors fund their accounts. One commenter stated the concern that a shortened settlement cycle would impose hardships on retail investors who transfer funds between financial institutions by paper check.[299] These retail investors might need to change the way that they fund their transactions as a result of the operational and technological changes required for a shorter settlement cycle. The Commission notes that after a transition to a T+2 standard settlement cycle broker-dealers may continue to accept paper checks from retail investors. However, retail investors that transfer funds by paper check may need to accelerate their payments associated with their transactions by one day.[300] For example, retail investors who previously mailed paper checks may instead deliver these checks overnight or by hand. While information on the number of paper checks currently used to fund transactions is not readily available, the Commission notes that the cost of overnight delivery of a single paper check using the U.S. postal service is approximately $23.75,[301] and believes that the difference between this and first-class postage, $23.28, represents a reasonable estimate of the

[295] Industry estimates have suggested some updates to systems and processes might yield operational cost savings after the initial update. *See infra* Part VI.C.5.a for industry estimates of the costs and benefits of the amendment to Rule 15c6–1(a).

[296] *See infra* Part VI.C.5 for more detail of the specific operational costs that each type of market participant may incur.

[297] SIFMA at 10.

[298] *See supra* Part VI.C.1 for further discussion of the impact of broker-dealer market power. *See infra* Part VI.C.5(3) for quantitative estimates of the costs to broker-dealers.

[299] *See* Gellert.

[300] *See* Part III.A.3.

[301] The current postage rate for a U.S. Postal Service (USPS) Priority Mail Express 1-Day™ Flat Rate Envelope is $23.75. Other vendors' rates may vary.

most inexpensive means of accelerating delivery of checks on a per-transaction basis.[302] In addition, broker-dealers that serve retail investors may also experience costs unrelated to funding choices. For instance, retail investors may require additional or different services such as education regarding the impact of the shorter standard settlement cycle.[303] Although the Commission does not believe that the amendment will directly prevent retail investors from the transfer of funds by paper check, the Commission believes that even if retail investors were required to fund their transactions more quickly, requiring a transition to a T+2 standard settlement cycle is appropriate in light of the expected benefits from reductions in credit, market, and liquidity risk in financial markets.

Several commenters noted that broker-dealers engaging in securities lending may incur additional implementation costs relative to other broker-dealers.[304] In particular, one commenter noted that these firms would need to train staff to adjust to a shortened recall cycle.[305] Another commenter noted that industry participants recognize and support the need for the move to T+2 settlement, despite the implication that this move will necessarily shorten the recall period by one day and require operational adjustments.[306] A third commenter stated that participants in securities lending transactions, including security lenders, security borrowers, and service providers, are currently addressing the impact of a shortened settlement cycle on their business models and trading strategies, notably that the move to T+2 will shorten the recall period by one day.[307]

At the same time, some market participants may face lower implementation costs as a result of their current business structure and practices. As mentioned earlier, 2011 DTCC affirmation data indicate that, on average, 45% of trades were affirmed on trade date, while 90% were affirmed on T+1.[308] In addition, market participants that trade in markets that have already implemented a T+2 settlement cycle may face lower costs in transitioning to a T+2 cycle in the U.S., as many of the systems and process improvements may already have been adopted in order to support settlement in other markets.

Finally, a shorter settlement cycle may result in higher costs associated with liquidating a defaulting member's position, as a shorter horizon for default management may result in larger price impacts, particularly for less liquid assets. For example, when a clearing member defaults, NSCC is obligated to fulfill its trade guaranty with the defaulting member's counterparty. One way it accomplishes this is by liquidating assets from clearing fund contributions from clearing members. However, depending on the composition of clearing fund deposits, the liquidation of clearing fund assets in a short period of time may have an adverse impact on the price of these assets. Shortening the standard settlement cycle from T+3 to T+2 would reduce the amount of time that NSCC would have to liquidate clearing fund deposits, which may exacerbate the price impact of liquidation. One commenter noted a similar negative impact in a different setting, stating that broker-dealers required by Federal Reserve Board's Regulation T to liquidate a customer's unpaid transaction would have one less day to do so.[309] Broker-dealers may increase investments in pre-transaction risk management practices to compensate for the reduction in time available to liquidate a customer's unpaid transaction should the broker-dealer need to disaffirm a trade. In addition, the Commission notes that broker-dealers already rely on many risk management practices to mitigate the counterparty risks posed by their customers before the need to disaffirm a trade.[310]

3. Economic Implications Through Other Commission Rules

As discussed in Part III.B, shortening the standard settlement cycle could have an ancillary impact on how market participants comply with existing regulatory obligations that relate to the settlement timeframe. The Commission provided examples of specific Commission rules that include such requirements or are otherwise are keyed-off of settlement date, including Regulation SHO,[311] and certain provisions included in the Commission's financial responsibility rules.[312]

Financial markets and regulatory requirements have evolved significantly since the Commission adopted Rule 15c6–1 in 1993. Market participants have responded to these developments in diverse ways, including implementing a variety of systems and processes, some of which may be unique to the market participant and its business, and some of which may be integrated throughout the market participant's operations. Because of the broad variety of ways in which market participants currently satisfy regulatory obligations pursuant to Commission rules, in most circumstances it is difficult to identify with precision those practices that market participants will need to change in order to meet these other obligations. Under these circumstances, and without additional information, the Commission is unable to provide an estimate of the ancillary economic impact that the amendment to Rule 15c6–1(a) would have on how market participants comply with other Commission rules.

In certain cases, based on information about current market practices, the Commission believes that the amendment to Rule 15c6–1(a) is unlikely to change the means by which market participants comply with existing regulatory requirements. For example, under the amendment, broker-dealers will have a shorter timeframe to comply with the customer confirmation requirements of Exchange Act Rule 10b–10. However, the Commission understands that broker-dealers typically send physical customer confirmations on the day after trade date, and many broker-dealers send electronic confirmations to customers on trade date. The Commission believes that because of the lack of ancillary consequences in these cases, market participants are unlikely to bear additional costs to comply with these requirements under a shorter standard settlement cycle.

In certain cases, however, the amendment to Rule 15c6–1(a) may incrementally increase the costs associated with complying with other Commission rules where those rules potentially require broker-dealers to engage in purchases of securities within a specific period of time. Two examples of these types of rules are Regulation SHO and the Commission's financial responsibility rules. In most instances, Regulation SHO governs the timeframe in which a ''participant'' of a registered clearing agency must close out a fail to

[302] Calculated as the difference between USPS Priority Mail Express 1-Day™ Flat Rate Envelope and first-class postage: $23.75 − $0.47 = $23.28.

[303] *See infra* Part VI.C.5.b.3 for more on retail investors and their broker-dealers.

[304] Thomson Reuters at 2; SIFMA at 18; Fidelity at 4.

[305] *See* Thomson-Reuters at 2.

[306] *See* SIFMA at 18.

[307] *See* Fidelity at 4.

[308] *See supra* Part VI.C.5(5) for discussion of foreign broker-dealers.

[309] BDA at 1–2.

[310] *See* Part II.C.2 *supra* for a discussion of broker-dealer risk-management practices.

[311] *See supra* Part III.C.1.

[312] *See supra* Part III.C.2.

deliver position by purchasing or borrowing securities. In the event a market participant must alter current operations, practices or systems or develop new operations, practices or systems in order to comply with the current provisions of Regulation SHO, there may be associated costs. For example, if recalls of loaned securities need to be made one day sooner in order to comply with certain requirements under Regulation SHO, the broker-dealer will have to ensure its systems, staff and operations are prepared to make the adjustment to accommodate the change.[313]

Similarly, some of the Commission's financial responsibility rules relate to actions or notifications that reference the settlement date of a transaction. For example, Exchange Act Rule 15c3–3(m) [314] uses settlement date to prescribe the timeframe in which a broker-dealer must complete certain sell orders on behalf of customers. The settlement date is also incorporated into paragraph (c)(9) of Rule 15c3–1,[315] which explains what it means to ''promptly transmit'' funds and ''promptly deliver'' securities within the meaning of paragraphs (a)(2)(i) and (a)(2)(v) of Rule 15c3–1. As explained above, the concepts of promptly transmitting funds and promptly delivering securities are incorporated in other provisions of the financial responsibility rules.[316] Under the amendment to Rule 15c6–1(a), the timeframes included in these rules will be one business day closer to the trade date.

The Commission believes that shortening these timeframes will not materially affect the costs that broker-dealers are likely to incur to meet their Regulation SHO obligations and obligations under the Commission's financial responsibility rules after the settlement date. Nevertheless, the Commission acknowledges that a shorter settlement cycle could affect the processes by which broker-dealers manage the likelihood of incurring these obligations. For example, broker-dealers may currently have in place inventory management systems that help them avoid failing to deliver securities by T+3. Broker-dealers may incur incremental costs in order to update these systems to support a shorter settlement cycle.

In cases where market participants will need to adjust the way in which they comply with other Commission rules, the magnitude of the costs associated with these adjustments is difficult to quantify. As noted above, market participants employ a wide variety of strategies to meet regulatory obligations. For example, broker-dealers may ensure that they have securities available to meet their obligations by using inventory management systems or they may choose instead to borrow securities. An estimate of costs is further complicated by the possibility that market participants could change their compliance strategies in response to the shortened standard settlement cycle. However, the Commission notes that some of the adjustment costs for compliance with other Commission rules, such as the stock loan recall requirements of Regulation SHO, and the prospectus delivery requirements of Securities Act Rule 172 are included in the cost estimates we provide in Part VI.C.5.[317]

4. Effect on Efficiency, Competition, and Capital Formation

A shorter standard settlement cycle will improve the efficiency of the clearance and settlement process through several channels. The Commission believes that the primary effect that a shorter settlement cycle would have on the efficiency of the settlement process would be a reduction in the credit, market, and liquidity risks that broker-dealers, CCPs, and other market participants are subject to during the standard settlement cycle. A shorter standard settlement cycle will generally reduce the volume of unsettled transactions that could potentially pose settlement risk to counterparties. By shortening the period between trade execution and settlement, trades can be settled with less aggregate risk to counterparties or the CCP. A shorter standard settlement cycle may also decrease liquidity risk by enabling market participants to access the proceeds of their transactions sooner, which may reduce the cost market participants incur to handle idiosyncratic liquidity shocks (*i.e.,* liquidity shocks that are uncorrelated with the market). That is, because the time interval between a purchase/sale of securities and payment is reduced by one day, market participants with immediate payment obligations that they could cover by selling securities would be required to obtain short-term funding for one less business day.[318] As a result of reduced cost associated with covering their liquidity needs, market participants may, under particular circumstances, be able to shift assets that would otherwise be held as liquid collateral towards more productive uses, improving allocative efficiency.[319] Several commenters made similar arguments, noting the benefits of reduced liquidity risk and reduced collateral requirements.[320]

In addition, a shorter standard settlement cycle may increase price efficiency through its effect on credit risk exposures between financial intermediaries and their customers. In particular, a prior study noted that certain intermediaries that transact on behalf of investors, such as broker-dealers, may be exposed to the risk that their customers default on payment obligations when the price of purchased securities declines during the settlement cycle.[321] As a result of the option to default on payment obligations, customers' payoffs from securities purchases resemble European call options and, from a theoretical standpoint, can be valued as such. Notably, the value of European call options are increasing in the time to maturity [322] suggesting that the value of call options held by customers who purchase securities is increasing in the length of the settlement cycle. In order to compensate itself for the call option that it writes, an intermediary may include the cost of these call options as

[313] *See* Part III.C.1 for the discussion of the impact of shortening the settlement cycle on complying with Regulation SHO. The costs of these adjustments are incorporated into the cost estimates in Part VI.C.5.b.3.

[314] 17 CFR 240.15c3–3(m).

[315] 17 CFR 240.15c3–1(c)(9).

[316] *See, e.g.,* 17 CFR 240.15c3–1(a)(2)(i), (a)(2)(v); 17 CFR 240.15c3–3(k)(1)(iii), (k)(2)(i), (k)(2)(ii); 17 CFR 240.17a–5(e)(1)(A); 17 CFR 240.17a–13(a)(3).

[317] Stock loan recall and prospectus delivery requirements were explicitly listed in the set of process updates necessary for T+2 in the T+2 Playbook, which was used to form our upper bound cost estimates. For the SIFMA survey cost estimates which the Commission uses as a lower bound for cost estimates, the Commission assumes that survey responders have incorporated these costs into their estimates.

[318] *See supra* Part VI.B.2.

[319] *See supra* Part VI.A for more on collateral and allocative efficiency.

[320] SIFMA at 15, ICI at 4–5, FIF at 2, WFA at 2. The SIFMA comment letter stated that CCPs will be better positioned to serve as a source of stability and efficiency within the clearance and settlement system when there is a shorter period of time during which they are exposed to credit, market, and liquidity risks, and provided DTCC's estimate of a reduction of nearly $1.36 billion in average daily clearing fund requirements for DTCC member firms (in the absence of NSCC's accelerated trade guaranty). The ICI letter also discussed the reduction in credit, market, and liquidity risk, and added that this will reduce liquidity gaps and enhance cash management for investment advisers and mutual funds as well as other institutional investors. WFA stated that a shortened settlement cycle would reduce systemic risks, free up capital, standardize global transaction settlement, and better meet customers' needs.

[321] *See* Madhavan et al., *supra* note 240.

[322] All other things equal, an option with a longer time to maturity is more likely to be in the money given that the variance of the underlying security's price at the exercise date is higher.

part of its transaction fee and this cost may become a component of bid-ask spreads for securities transactions. By reducing the value of customers' option to default by reducing the option's time to maturity, a shorter standard settlement cycle may reduce transaction costs in U.S. securities markets.[323] In addition, to the extent that any benefit buyers receive from deferring payment during the settlement cycle is incorporated in securities returns,[324] the amendment to Rule 15c6–1, as adopted, may reduce the extent to which these returns deviate from returns consistent with changes to fundamentals.

The Commission believes that the amendment to Rule 15c6–1(a) will likely require market participants to incur costs related to infrastructure upgrades and will likely yield benefits to market participants, largely in the form of reduced financial risks related to settlement. As a result, the Commission believes that the amendment to Rule 15c6–1(a) could affect competition in a number of different, and potentially offsetting, ways.

The prospective reduction in financial risks related to shortening the standard settlement cycle may represent a reduction in barriers to entry for certain market participants. Reductions in the financial resources required to cover an NSCC member's clearing fund requirements that result from a shorter standard settlement cycle could encourage financial firms that currently clear transactions through NSCC clearing members to become clearing members themselves. Their entry into the market could promote competition among clearing members at NSCC. Furthermore, if a reduction in settlement risks results in lower transaction costs for the reasons discussed above, market participants that were, on the margin, discouraged from supplying liquidity to securities markets due to these costs could choose to enter the market for liquidity suppliers, increasing competition.

At the same time, the Commission acknowledges that the technological and operational changes required to enable a shorter standard settlement cycle could adversely affect competition. Among clearing members, where such process improvements might be necessary to comply with the shorter standard settlement cycle required under the amendment to Rule 15c6–1(a), the cost associated with compliance might create barriers to entry, because new firms will incur higher fixed costs associated with a shorter standard settlement cycle if they wish to enter the market. Clearing members might choose to comply by upgrading their systems and processes or may choose instead to exit the market for clearing services. The exit of clearing members could have negative consequences for competition between clearing members. Clearing activity tends to be concentrated among larger broker-dealers, and the exit of clearing members could result in further concentration and additional market power for those clearing members that remain.[325]

Alternatively, some current clearing members may choose to comply by ceasing to be clearing members and instead outsourcing their operational needs to third-party service providers. Use of third-party service providers may represent a reasonable response to the operational costs associated with the amendment to Rule 15c6–1(a). While the costs associated with the amendment to Rule 15c6–1(a) may have adverse effects on competition between clearing members, including by increasing barriers to entry for broker-dealers who wish to become clearing member, the Commission believes that the use of third-party service providers may mitigate them. This is because, to the extent that third-party service providers are able to spread the fixed costs of compliance across a larger volume of transactions than their clients, the Commission believes that the use of third-party service providers might impose a smaller compliance cost on clearing members, including smaller broker-dealers, than if these firms directly bore the costs of compliance.

Existing market power may also affect the distribution of competitive impacts stemming from the amendment to Rule 15c6–1(a) across different types of market participants. While, as noted above, reductions in risk could promote competition among clearing members and liquidity suppliers, these groups may benefit to differing degrees, depending on the extent to which they are able to capture the benefits of a shortened standard settlement cycle. For example, clearing brokers tend to be larger than other broker-dealers,[326] and may generally be able to appropriate more of the savings from clearing fund deposit reductions for themselves if they have market power relative to their customers by passing only a small portion of savings through to their customers through fees or transactions costs. However, those broker-dealers that predominantly serve retail investors may be in a better bargaining position relative to those that predominantly serve institutional investors, and therefore may capture more of the benefits stemming from the amendment to Rule 15c6–1(a). Likewise, broker-dealers that serve retail investors may similarly be able to use their market power relative to their customers to retain more of the clearing fund deposit reduction as profits by maintaining their transaction costs and fees instead of passing these through to their customers. Institutional investors may be in a relatively better bargaining position by virtue of their large size and may be more likely to successfully negotiate lower fees or transaction costs and share in the savings associated with lower clearing fund deposits.

Finally, a shorter standard settlement cycle could improve the capital efficiency of the clearance and settlement process, which would promote capital formation in U.S. securities markets and in the financial system generally.[327] A shorter standard settlement cycle would reduce the amount of time that collateral must be held for a given trade, thus freeing the collateral to be used elsewhere earlier. Additionally, one commenter estimated that the move to a T+2 standard settlement cycle would reduce NSCC clearing fund deposits by an average of almost 9%, which translates into approximately $533 million of freed capital for NSCC's members.[328] The greater collateral efficiency promoted by a shorter settlement cycle might also indirectly promote capital formation for market participants in the financial system in general, because the proceeds from purchases and sales will be available to market participants faster, and allow those assets to be used for other purposes sooner. This would improve capital efficiency, as a given amount of collateral can support a larger amount of economic activity.

5. Quantification of Direct and Indirect Effects of a T+2 Settlement Cycle

Prior to the T+2 Proposing Release, industry groups released cost estimates for compliance with a shorter standard settlement cycle, including the SIA, the ISC, and BCG. In response to the T+2 Proposing Release, SIFMA and ICI

[323] One commenter agreed that a shorter settlement cycle could result in lower transactions costs. *See* Newill.

[324] *See supra* Part VI.B.2.

[325] *See id.*

[326] *Id.*

[327] *See supra* Part VI.C.1. and Part VI.C.4. for more discussion about capital formation and efficiency.

[328] SIFMA at 10. The SIFMA comment letter also noted that DTCC estimated a reduction of nearly $1.36 billion in average daily clearing fund requirements for DTCC member firms in the absence of NSCC's accelerated trade guaranty.

retained the services of Deloitte & Touche LLC to analyze the results of the Industry Cost Survey that they conducted of asset managers, broker-dealers, and custody banks, as well as service bureaus and DTCC.[329] This survey provides cost estimates for the investments necessary for a T+2 standard settlement cycle. This economic analysis first summarizes the most recent cost estimates provided by commenters in the subsection immediately below and then, in the following subsections, provides the Commission's evaluation of these estimates as part of a discussion of the potential direct and indirect compliance costs related to the amendment to Rule 15c6–1(a).

a. Industry Estimates of Costs and Benefits

The SIFMA survey cost estimates have several advantages over the BCG Study cost estimates published in 2012. First, because the SIFMA survey cost estimates are more recent, they may take into account technological innovations that have occurred since 2012 that may have changed the cost of upgrades that a shorter standard settlement cycle could necessitate. In addition, the SIFMA survey cost estimates may also incorporate information about more recent investments many market participants have already made to support transition to a T+2 settlement cycle which may reduce the necessity of certain upgrades.[330] Finally, given the efforts of industry participants to publicize the transition to a T+2 standard settlement cycle, market participants may have a more concrete timeline upon which to base their cost estimates.

The Commission notes that some of the weaknesses of the BCG Study also apply to the SIFMA survey. As both studies rely on respondents to voluntarily provide information about their own cost estimates, the cost estimates may not be representative of the costs of all market participants. Given that the cost estimates in some industry categories had significant variation, it is not clear to what extent the costs of those industry participants who did not respond to the survey would differ from those that did. However, the response rates in different categories of industry participants varied significantly, which suggests that the potential for selection bias for the cost estimates may vary by participant category.

The SIFMA survey concluded that the transition to a T+2 standard settlement cycle would cost approximately $687 million in incremental initial investments across industry constituent groups.[331] This value is higher than the $550 million total cost estimate from the BCG Study in conducted in 2012.[332] The SIFMA survey contained 87 responses segmented by business model, including asset managers, clearing broker-dealers, introducing broker-dealers, self-clearing broker-dealers, custody banks, and service providers, to produce an average cost for the category of firm. The Commission's entity estimates for each category of firm from the T+2 Proposing Release were used to estimate the size of each category, and to produce the total cost estimate. In addition, the survey's estimates were grouped by the size of the firm, with this grouping based on assets under management (''AUM'') for asset managers and on annual revenues for sell side and clearing firms.[333]

The investment costs for asset managers were estimated to be $74,000 per asset manager, and the total cost for all asset managers would be $71,410,000.[334] The 26 asset managers that responded to the survey represented approximately 48% of ICI fund members' assets in open ended mutual funds. The survey estimate for broker-dealers (clearing for others and self-clearing) is approximately $2,690,000, with the total cost for all broker-dealers (clearing for others and self-clearing) estimated to be $500,340,000.[335] The commenter noted that broker-dealer respondents provided cost estimates that varied significantly, and that some self-clearing firms reported much lower costs due to their use of third party service providers and the fact that some firms have already made the investments necessary to support a move to a T+2 settlement cycle given their presence in non-U.S. markets that operate on a T+2 settlement cycle. At the same time, other self-clearing firms reported much higher costs, up to $15.6 million.

The survey noted that introducing firms reported *de minimis* direct implementation costs, and estimates that each introducing broker-dealer would incur $30,000 of client outreach and education costs. The survey estimated that custodian banks would have an average cost of $782,000, with a total cost for all custodian banks of $41,446,000.[336] The average cost estimate for service providers was $3,006,000, and the total cost estimate for all service providers was $18,036,000. As in the case for broker-dealers, the commenter notes that there was significant variation in cost estimates, as some service providers reported having already made the necessary investments. In addition, the survey notes that survey respondents were instructed not to include the costs of third party service party providers in their responses, to avoid double counting. The survey estimates that the average cost for ETC providers was $315,000 each, with the total cost for all Matching/ETC providers at $945,000. The estimated cost for NSCC and DTC was $10 million each, which was provided by DTCC.

b. Commission Estimates of Costs

The amendment to Rule 15c6–1(a) will generate direct and indirect costs for market participants, who may need to change multiple systems and processes to comply with a T+2 standard settlement cycle. As noted in Part IV above, the T+2 Playbook included a timeline with milestones and dependencies necessary for a transition to a T+2 settlement cycle, as well as activities that market participants should consider in preparation for the transition. The Commission believes that the majority of the activities of migration to a T+2 standard settlement cycle will stem from behavior modification of market participants and systems testing, and thus the majority of the costs of migration will be from labor. These modifications may include a compression of the settlement timeline, as well as an increase in the fees that brokers may impose on their customers for trade failures.

As noted by several commenters, many market participants work with

[329] SIFMA at 10.

[330] *See* SIFMA at 13.

[331] SIFMA at 24. The commenter stated its belief that these costs, while significant, reflect that its members and other market participants would bear the costs of the transition to a T+2 settlement cycle individually and by segment both reasonably and proportionately. The commenter further stated that the survey indicated that costs borne by various segments could be reduced because investments already made in system changes for firms operating in jurisdictions that maintain a T+2 settlement environment and widespread use of service bureaus to provide clearance and settlement services include the changes needed to support the initiative. SIFMA at 10. In addition, one other commenter stated that it does not believe the proposed amendment will impose any burdens on the industry in addition to those necessary to implement the industry initiative to move to T+2. Fidelity at 6.

[332] SIFMA at 10.

[333] SIFMA at 10–11. There was a broad range of firm sizes and business models, with asset managers with AUM ranging from $20 billion to over $200 billion and annual revenues of broker-dealers ranging from under $250 million to over $1 billion.

[334] SIFMA at 24.

[335] *Id.*

[336] *Id.*

third-party service providers for activities such as trade processing and asset servicing, and thus may only indirectly bear the costs of the requirements. In addition, some market participants already have the processes and systems in place to accommodate a T+2 settlement cycle or would be able to adjust to a T+2 settlement cycle with minimal cost. For example, some market participants may already have the systems and processes to reduce the amount of time needed for trade affirmation and matching.[337] These market participants may thus bear a significantly lower cost to update their trade affirmation to comply with a T+2 standard settlement cycle.

In the following section, the Commission examines several categories of market participants and estimates the compliance costs for each category. The Commission acknowledges that many entities are already undertaking activities to support a migration to a T+2 settlement cycle in anticipation of the amendment. However, to the extent that the costs of these activities have already been incurred, the Commission considers these as sunk costs and therefore does not include them in the analysis below.

(1) FMUs—CCPs and CSDs

NSCC and DTC systems and operations will require adjustment to support a T+2 standard settlement cycle. According to the T+2 Playbook and the ISC White Paper, regulation-dependent planning, implementation, testing, and migration activities associated with the transition to a T+2 settlement cycle could last up to five quarters.[338] In the T+2 Proposing Release, the Commission initially estimated that these activities will impose a one-time compliance cost of $10.9 million [339] for DTC and NSCC each. The SIFMA survey stated that DTCC reported their estimated costs to be $10 million each, $6 million for the build out necessary for the test environment and $4 million for T+2 system modifications.[340] These self-reported costs do not significantly differ from the Commission's nor the BCG Study's preliminary estimate.

(2) Matching/ETC Providers—Exempt Clearing Agencies

Matching/ETC Providers may need to adapt their trade processing systems to comply with a T+2 settlement cycle. This may include actions such as updating reference data, configuring trade match systems, and configuring trade affirmation systems to affirm trades by 12:00 p.m. on T+1. Matching/ETC Providers will also need to conduct testing and assess post-migration activities. In response to the SIFMA survey, Matching/ETC providers indicated an average cost of $315,000 each. Given that two out of the three Matching/ETC providers responded to the survey, the Commission believes that the survey responses support a lower bound of the per-entity cost estimate to $315,000. However, the Commission acknowledges that some Matching/ETC providers may have a higher or lower costs than others based on the volume of transactions that they process as well as the extent to which the ETC provider has already made the necessary investments for a T+2 settlement cycle. Thus, the Commission continues to believe that the $10.9 million per entity estimate cost is a reasonable upper bound on the per-entity cost estimate for Matching/ETC Providers. The Commission expects that Matching/ETC providers will incur minimal ongoing costs after the initial transition to a T+2 settlement cycle because the Commission believes that the majority of the costs of migration to a T+2 settlement cycle entail behavioral changes of market participants and pre-migration testing.

(3) Market Participants—Investors, Broker-Dealers, and Custodians

The overall compliance costs that a market participant incurs in connection with the amendment to Rule 15c6–1(a) will depend on the extent to which it is directly involved in functions related to clearance and settlement, asset servicing, and other activities. For example, retail investors may bear few (if any) direct costs in a transition to a T+2 standard settlement cycle, because their respective broker-dealer handles the back-office functions of each transaction. However, as is discussed below, this does not imply that retail investors will not face indirect costs from the transition, such as those passed through from broker-dealers or banks.

Institutional investors may need to configure systems and update reference data, which may also include updates to trade funding and processing mechanisms, to operate in a T+2 environment. In the T+2 Proposing Release, the Commission preliminarily estimated that these would require an initial expenditure of $2.32 million per entity.[341]

The SIFMA survey estimated that asset managers would have an average cost of $74,000. The survey received 26 responses from asset managers, which represented $7.8 trillion in assets under management (''AUM''), approximately 48% of total ICI fund members' assets in open ended mutual funds. The average cost varied depending on the asset manager's size, with those with $20 billion to $250 billion in AUM with an approximate average cost estimate of $151,000, while the largest asset managers with over $200 billion in AUM had lower average costs of approximately $58,000. The SIFMA survey argued that this difference in cost may reflect the fact that larger asset managers may have already made system changes to support their activity in non-U.S. markets that have already moved to a T+2 settlement cycle.[342] Asset managers represent a subset of the institutional investors that will bear costs as a result of the amendment. Based on these survey responses, the Commission acknowledges that a portion of institutional investors will likely bear lower costs than was initially estimated, and the Commission is revising the lower bound of its per-entity cost estimate to the SIFMA survey estimates $74,000 per institutional investor. However, these costs may vary depending on the extent to which a particular institutional investor has already automated their trade processes, and the Commission is maintaining its initial estimate of $2.32 million as an upper bound cost estimate. The Commission expects institutional investors will incur minimal ongoing direct compliance costs after the initial transition to a T+2 standard settlement cycle.

Broker-dealers that serve institutional investors will not only need to configure their trading systems and update reference data, but may also need to update trade confirmation/affirmation systems, documentation, cashiering and asset servicing functions, depending on the roles they assume with respect to their clients. In the T+2 Proposing Release, the Commission preliminarily

[337] *See* BCG Study, *supra* note 247, at 23; SIFMA at 4–5.

[338] *See* T+2 Playbook, *supra* note 209, at 11. To monetize the internal costs, Commission staff used data from the SIFMA publications. Our time estimates account for the fact that a portion of the timeline has already elapsed in anticipation of a transition to a T+2 standard settlement cycle, and those costs are already sunk.

[339] The estimate is based on the T+2 Playbook timeline, which estimates regulation-dependent implementation activity, industry testing, and migration lasting five quarters. We assume 10 operations specialists (at $129 per hour), 10 programmers (at $256 per hour), and 1 senior operations manager (at $345/hour), working 40 hours per week. $(10 \times \$129 + 10 \times \$256 + 1 \times \$345) \times 5 \times 13 \times 40 = \$10{,}907{,}000$.

[340] SIFMA at 25; DTCC Letter at 3.

[341] T+2 Proposing Release, *supra* note 1, 81 FR at 69275.

[342] *See* SIFMA at 24.

estimated that, on average, each of these broker-dealers would incur an initial compliance cost of up to $4.72 million.[343] We expect that these broker-dealers will incur minimal ongoing direct compliance costs after the initial transition to a T+2 standard settlement cycle.

Broker-dealers that serve retail investors may also need to spend significant resources to educate their clients about the shorter settlement cycle. In the T+2 Proposing Release, the Commission preliminarily estimated that these broker-dealers would incur an initial compliance cost of up to $8.6 million each.[344] Retail investors may require additional education and customer service, which may impose costs on their broker-dealers. The Commission preliminarily estimated that a reasonable upper bound for the costs associated with this requirement is $30,000 per broker-dealer.[345]

The SIFMA survey reported that introducing firms reported a *de minimis* direct implementation investment cost, as the necessary investments were made at their clearing firms and other service providers.[346] The survey also stated that introducing firms would likely only have costs related to employee education and outreach to customers, and used the Commission estimate of $30,000 for each introducing firm for these costs.[347] Given the survey responses, the Commission believes that the total average cost of $30,000 is an appropriate lower bound for the per-entity cost for introducing firms, and that the previous estimate from the T+2 Proposing Release of $8,630,000 remains an appropriate upper bound.

Assuming all clearing and introducing broker-dealers must educate retail customers, the total costs of retail investor education would be approximately $50.5 million for all broker-dealers.[348]

Custodian banks will need to update their asset servicing functions to comply with a shorter settlement cycle. In the T+2 Proposing Release, the Commission preliminarily estimated that custodian banks would incur an initial compliance cost of $1.16 million per custodian bank.[349] The SIFMA survey estimated that the average cost for each custodian bank would be approximately $782,000, which the Commission uses as a lower bound estimate for the average cost. In addition, the Commission expects custodian banks to incur minimal ongoing compliance costs after the initial transition because most of the costs will stem from pre-migration updates and testing.

(4) Indirect Costs

In estimating these implementation costs, we note that market participants who bear the direct costs of the actions they undertake to comply with Rule 15c6–1 may pass these costs on to their customers. For example, retail and institutional investors might not directly bear the cost of all of the necessary upgrades for a T+2 settlement cycle, but might indirectly bear these costs as their broker-dealers might increase their fees to amortize the costs of updates among their customers. The Commission is unable to quantify the overall magnitude of the indirect costs that retail and institutional investors may bear, because it will depend on the market power of each broker-dealer, and its willingness to pass on the costs of migration to a T+2 standard settlement cycle to their customers. However, the Commission believes that in situations where broker-dealers have little or no competition, broker-dealers may at most pass on the entire cost of the initial investment to their customers. As discussed above, this could be as high as $4.72 million for broker-dealers that serve institutional investors, and $8.6 million for broker-dealers that serve retail investors. However, in situations where broker-dealers face heavy competition for customers, broker-dealers may bear the costs of the initial investment entirely, and avoid passing on these costs to their customers.

As noted in Part VI.A above, the ability of market participants to pass implementation costs on to customers likely depends on their relative bargaining power. For example, CCPs, like many other utilities, exhibit many of the characteristics of natural monopolies and, as a result, may have market power, particularly relative to broker-dealers who submit trades for clearing. This means that they may be able to share implementation costs they directly face related to shortening the settlement cycle with broker-dealers through higher clearing fees. Conversely, if institutional investors have market power relative to broker-dealers, broker-dealers may not be in a position to impose indirect costs on them.

(5) Industry-Wide Costs

To estimate the aggregate, industry-wide cost of a transition to a T+2 standard settlement cycle, the Commission takes its per-entity estimates and multiplies them by its estimate of the respective number of entities. The Commission estimates that there are 965 buy-side firms, 186 broker-dealers, and 53 custodian banks.[350] Additionally, as noted in Part III.C.1.c above, there are three Matching/ETC Providers, and 1,683 broker-dealers that will incur investor education costs. One way to establish a total industry initial compliance cost estimate would be to multiply each estimated per-entity cost by the respective number of entities and sum these values, which would result in an estimate of $4.0 billion.[351] The Commission, however, believes that this estimate is likely to overstate the true initial cost of transition to a T+2 settlement cycle for a number of reasons, and thus uses this value as an upper bound for our cost estimates. First, the Commission's per-entity estimates do not account for the heterogeneity in market participant size, which may have a significant impact on the costs that market participants face. While the SIFMA survey and the BCG Study included both estimates of the number of entities in different size categories as well as estimates of costs that an entity in each size category is likely to incur, it did not provide sufficient underlying information to allow the Commission to estimate the relationship between market participant size and compliance cost and thus the Commission cannot produce comparable estimates.

Second, the Commission's estimate assumes that broker-dealers will not repurpose existing systems that allow them to participate in foreign markets that require settlement by T+2. For example, approximately 99 of the

[343] T+2 Proposing Release, *supra* note 1, 81 FR at 69275.

[344] *Id.*

[345] This estimate is based on the assumption that a broker-dealer chooses to educate customers using a 10-minute view that takes at most $3,000 per minute to produce. *See* Crowdfunding, Exchange Act Release No. 76324 (Oct. 30, 2015), 80 FR 71388, 71529 & n.1683 (Nov. 16, 2015).

[346] SIFMA at 12.

[347] *See* SIFMA at 24.

[348] Calculated as $30,000 per broker-dealer × (186 broker-dealers reporting as self-clearing + 1,497 broker-dealers reporting as introducing but not self-clearing) = $50,490,000.

[349] *See* T+2 Proposing Release *supra* note 1, 81 FR at 69275.

[350] The estimate for the number of buy-side firms is based on the Commission's 13(f) holdings information filers with over $1 billion in AUM, as of December 31, 2015. The estimate for the number of broker-dealers is based on FINRA FOCUS Reports of firms reporting as self-clearing. *See supra* note 258 and accompanying text. The estimate for the number of custodian banks is based on the number of ''settling banks'' listed in DTC's Member Directories, available at *http://www.dtcc.com/client-center/dtc-directories.*

[351] Calculated as 186 broker-dealers (self-clearing) × $8,606,000 + 1683 broker-dealers (self-clearing and introducing) × $30,000 + 53 custodian banks × $1,159,000 + 965 buy-side firms × $2,319,000 + 3 Matching/ETC Providers × $10,900,000 + 2 FMUs × $10,900,000 = $ 4,005,034,800.

broker-dealers that reported self-clearing also reported that they were affiliates or subsidiaries of foreign broker-dealers or banks. To the extent that a broker-dealer has a foreign affiliate or parent that already has systems in place to support T+2 settlement in foreign markets, it may bear lower costs under the proposed amendment to Rule 15c6–1(a) than the estimate above. Removing all 99 of these broker-dealers from the computation of total industry initial compliance cost estimate presented above results in a reduction of this estimate to approximately $3.2 billion.[352] One commenter stated that those firms that had already made investments to support the move to T+2 settlement in Europe were expected to be able to draw on their experience to rely on already modified systems to support the move in their U.S. operations.[353]

Third, investments by third-party service providers may mean that many of the estimated compliance costs for market participants are duplicated. The SIFMA survey and BCG Study suggests that the use of service providers may yield a savings of $194 million, reducing aggregate costs by approximately 29%.[354] Based on information gathered from the recent available financial reports of service providers, the Commission believes that a reasonable range of estimates for the average cost reduction associated with service providers across all entities could be between 16% and 32%.[355] Applying this range to the total industry initial compliance cost estimate presented above yields a range of total industry initial compliance cost estimates between $2.7 billion and $3.4 billion. One commenter supported this point, stating that ''[s]ome self-clearing firms reported that they anticipate making only *de minimis* investments beyond client communications and staff education, due to their use of third party service providers that will make the bulk of necessary investments.'' [356]

Taking into account potential cost reductions due to repurposing existing systems and using service providers as described above, the Commission initially estimated that $2.1 billion to $4.2 billion represented a reasonable range for the total industry initial compliance costs.[357] Having reviewed the survey data provided by SIFMA, the Commission believes that compliance costs for some types of entities may be lower than initially estimated in the T+2 Proposing Release and has revised down the lower bound of this range to $687 million. However, the Commission notes that the survey information also suggested substantial variation in per entity costs and, as a result, the Commission believes that $4.2 billion continues to be a reasonable upper bound for this range.

In addition to these initial costs, a transition to a T+2 standard settlement cycle may also result in certain ongoing industry-wide costs. Though the Commission believes that a move to a T+2 standard settlement cycle will generally bring with it a reduced reliance on manual processing, a shorter settlement cycle may also exacerbate remaining operational risk. This is because a shorter settlement cycle would provide market participants with less time to resolve errors. For example, if there is an entry error in the trade match details sent by either counterparty for a trade, both counterparties would have one extra business day to resolve the error under the baseline than in a T+2 environment. For these errors, a shorter settlement cycle may increase the probability that the error ultimately results in a settlement fail. However, given the variety of operational errors that are possible in the clearance and settlement process and the low probability of some of these errors, the Commission is unable to quantify the impact that shortening the standard settlement cycle to T+2 may have on the ongoing industry-wide costs stemming from a potential increase in operational risk.

Another industry-wide potential cost of shortening the standard settlement cycle is related to CCP member default. A shorter settlement cycle may provide CCPs with a shorter time horizon in which to manage a defaulting member's outstanding settlement obligations. Besides potentially increasing the operational risks associated with default management, a shorter standard settlement cycle may also have implications for CCPs that must liquidate a defaulting member's securities and, if circumstances require, the securities of non-defaulting members, in order to meet payment obligations for unsettled trades. A shorter standard settlement cycle leaves a CCP with less time in which to liquidate the securities and may increase the price impact associated with liquidation.

Current margin models at CCPs may account for the price impact associated with liquidating collateral. Although a CCP's margining algorithm may account for the additional impact generated by a shorter liquidation horizon for the defaulting member's clearing fund deposits, margin requirements may not reflect the costs that a liquidation over a shorter horizon may impose on other market participants. For example, a CCP may impose haircuts on collateral to account for the costs of liquidating collateral in the event of a clearing member default, causing clearing members to internalize a portion of the cost of liquidating illiquid assets. While the haircut may mitigate the risk that the price impact associated with liquidation of collateral assets over a shorter period of time causes the CCP to fail to meet its settlement obligations, the reduction in the price of collateral assets may affect other market participants who may be sensitive to the value of these assets.

D. Consideration of Alternatives

1. Shift to a T+1 Standard Settlement Cycle

Although the Commission proposed a two day standard settlement cycle, the Commission acknowledged that amending Rule 15c6–1(a) to further shorten the standard settlement cycle (*e.g.,* T+1 or T+0) could potentially result in further risk reduction in the national clearance and settlement system.[358] The T+2 Proposing Release requested comment on whether the standard settlement cycle should be shortened to T+1 or some other shorter settlement cycle, as well as the reasons for or against such further shortening.[359] The Commission stated its preliminary belief that shortening the standard settlement cycle to T+2 is the appropriate step to take at this time because implementing a T+1 or T+0

[352] Calculated as 87 broker-dealers (self-clearing) × $8,606,000 + 1683 broker-dealers (self-clearing and introducing) × $30,000 + 53 custodian banks × $1,159,000 + 965 buy-side firms × $2,319,000 + 3 Matching/ETC Providers × $10,900,000 + 2 FMUs × $10,900,000 = $ 3,153,040,800.

[353] *See* SIFMA at 12.

[354] *See* BCG Study *supra* note 247, at 79.

[355] Commission Staff hand collected information on operating margins for business segments related to settlement services of three large service providers for fiscal years 2013, 2014, and 2015. The median estimate was 16.4%. To arrive at the lower bound of 16%, the Commission assumes service providers capture all of the cost reduction they provide; to arrive at the upper bound, the Commission assumes that service providers share half of the overall cost reduction with their customers. Generally, the extent to which service providers share the efficiencies they provide with their customers may depend on service providers' bargaining power. *See, e.g.*, Binmore, Ken, Ariel Rubinstein, and Asher Wolinsky, *The Nash Bargaining Solution In Economic Modelling,* The RAND Journal of Economics, 17, no. 2, Summer, 1986, at 176–188.

[356] *See* SIFMA at 12.

[357] *See* T+2 Proposing Release, *supra* note 1, 81 FR at 69276.

[358] T+2 Proposing Release, *supra* note 1, 81 FR at 69259.

[359] *Id.* at 69262.

settlement cycle could require market participants to incur comparatively larger investments and would necessitate more lead time and greater coordination.[360]

The Commission has considered standard settlement cycles shorter than T+2, along with the related comments, and does not believe that a shorter settlement cycle is appropriate at this time.[361] The Commission believes that although a move to a T+1 standard settlement cycle could have similar qualitative benefits of market, credit, and liquidity risk reduction as a move to a T+2 standard settlement cycle, the types of investments and changes necessary to move to a T+1 standard settlement cycle will also introduce greater costs for market participants.

As stated earlier, a T+1 standard settlement cycle might result in a larger reduction in certain settlement risks than would result from a T+2 standard settlement cycle because, as explained above, the risks associated with counterparty default tend to increase with the passage of time. Price volatility, as measured by the standard deviation of a price, is concave in time, which means that as a period of time increases, volatility will increase, but at a decreasing rate. This suggests that the reduction in price volatility from moving from T+2 settlement to T+1 settlement is larger than the reduction in price volatility from moving from T+3 settlement to T+2 settlement. Similarly, assuming constant trading volume, the volume of unsettled trades for a T+1 standard settlement cycle would be reduced again by one-third, and, as a result, for any given adverse movement in prices, the financial losses resulting from counterparty default will be two-thirds less than those under a T+3 standard settlement cycle.

A few commenters urged the Commission to adopt a T+1 or shorter standard settlement cycle citing benefits similar to those of a T+2 standard settlement cycle, but greater in magnitude.[362] One commenter argued that the Commission should adopt a T+1 standard settlement cycle precisely because it would require more investments and transformations in securities processing.[363] This commenter stated that while the proposal constitutes an improvement over the status quo, the proposal is ''woefully'' insufficient to properly protect market participants from credit, market, and liquidity risks, safeguard the financial system from excessive and unnecessary threats, and ensure the timely processing of investors transactions. The commenter urged the Commission to go further to mitigate these shortcomings, including by moving without undue delay toward a T+1 standard based on STP. The commenter stated that T+2 still constitutes an unreasonably lengthy settlement process ''in this day and age,'' and effectively preserves other suboptimal processes within the settlement cycle.[364]

An additional commenter stated that the proposal did not go far enough to treat all investors equally and the settlement cycle should be ''24 hours maximum and 1 hour at a minimum.'' [365] Another commenter stated that it was time to implement ''instantaneous'' settlement of trades, noting that the practical impact of longer settlement cycles is that if he is ''actively trading,'' the commenter would not have access to the proceeds of a transaction until it settled and therefore had to keep funds ''un-invested'' at all times.[366]

Another commenter stated that cash account customers' transactions handled as principal by the executing broker should be settled on a next day (T+1) basis and that same day settlement of principal trades may be possible. In support of these statements, the commenter observed that it is common for execution, clearance, settlement, and custody to be provided by a single entity or interrelated entities, and that when this occurs, all aspects of the trade have occurred the instant that execution has been recorded on the customer account. The commenter further stated that these are effectively cash on delivery (''COD'') transactions and require only the sweep of funds to/from an individual's sweep account for their settlement. Finally, the commenter noted that funds available for trading by individual accounts are adjusted instantly following a trade, but when an outside sweep account is used, the sweep account may adjust only at day's end.[367]

The Commission believes that the initial costs of complying with a T+1 standard settlement cycle will be greater than with a T+2 standard settlement cycle. Successful transition to a settlement cycle that is shorter than T+2 could require larger investments by market participants to adopt new systems and processes. The upgrades necessary for a T+1 standard settlement cycle might include changes such as a transformation of lending and foreign buyer processes, real-time or near real-time trade processing capabilities, as well as a further acceleration of the retail funding timeline, which would require larger structural changes to the settlement process and more cross-industry coordination than the upgrades for a T+2 standard settlement cycle would. Because these upgrades could require more changes across multiple markets and settlement systems, they may be more expensive to implement than the upgrades necessary for T+2 settlement. Additionally, the lead time and level of coordination by market participants required to implement such changes to transition to a T+1 standard settlement cycle would be longer and greater than the time and coordination required to move to a T+2 standard settlement cycle, which could delay the realization of the risk-reducing benefits of shortening the settlement cycle and increase the risk that market

[360] *Id.* at 69259.

[361] The Commission noted in the T+2 Proposing Release that the Commission's Investor Advisory Committee (''IAC'') issued in February 2015 a public statement noting that shortening the settlement cycle will mitigate operational and systemic risk, as well as ''reduce credit, liquidity, and counterparty exposure risks,'' which will benefit both the securities industry and individual investors. *See* 81 FR at 69255. In its recommendation, the IAC stated that it ''strongly endorsed the direction of the recommendation by DTCC'' to shorten the settlement cycle to T+2, but recommended implementing a T+1 settlement cycle (rather than a T+2 settlement cycle), noting that retail investors would significantly benefit from a T+1 settlement cycle. According to the IAC, moving to a T+1 settlement cycle, matching the settlement cycle that already exists for treasuries and mutual funds, would greatly reduce systemic risk and benefit investors. *See* Investor Advisory Committee, U.S. Securities and Exchange Commission, Recommendation of the Investor Advisory Committee: Shortening the Settlement Cycle in U.S. Financial Markets (Feb. 12, 2015), *http://www.sec.gov/spotlight/investor-advisory-committee-2012/settlement-cycle-recommendation-final.pdf.*

[362] CFA at 1–4; Spydell; Parker.

[363] CFA at 1.

[364] CFA at 2, 3. More specifically, the commenter argued that a longer cycle allows settlement processes to be structured in inefficient ways that are iterative, redundant, and error prone, and a T+2 settlement cycle does not necessarily address these issues because, although a T+2 settlement cycle requires reducing the time between steps in the settlement process, it does not necessarily require the fundamental overhaul of settlement procedures so that they are most efficient, automated, and least error-prone. While acknowledging that a direct move to a T+1 settlement cycle would require higher initial costs compared with a move to a T+2 settlement cycle, the commenter stated that those costs would be ''paid back'' in a relatively short amount of time.

In addition, the commenter opposed what it characterized as the industry coalescing around the idea that the Commission should adopt at a 'T+2' standard and then pause for further assessment of industry readiness and appetite for a future move to T+1. The commenter further argued that the industry has already proven it is unwilling or unable to move collectively and in a timely manner toward a shorter and more automated settlement cycle, even one that is based on T+2 timeframe.

[365] Spydell.

[366] Parker.

[367] Finn I.

participants would not be able to transition to a T+1 standard settlement cycle in a coordinated fashion.

Several commenters argued against a move to a T+1 standard settlement cycle at this time for similar reasons, citing the industry coordination challenges, higher investment costs, and the longer time needed to recoup the investment.[368] One such commenter stated that the implementation effort, in terms of system and process changes, is considerably more to move to T+1, and that shifting efforts to achieve T+1 at this time would only delay ''our ability'' to achieve the risk reduction associated with the T+2 initiative.[369] Another commenter representing two of the registered clearing agencies that would be most impacted by the T+2 proposal stated that shortening the settlement cycle to T+0 or T+1 would present significant challenges and changes for many industry members.[370] The commenter further stated that transitioning to a T+1 or T+0 model would likely require a significantly larger effort across the industry due to the significant investments required to react to major process changes in existing business practices.[371] In addition, the commenter noted, some firms may incur significant investment costs when implementing new systems and/or transitioning existing systems from batch mode of operation to near real-time.[372]

Another commenter expressed support for the Commission's proposal and stated that the commenter does not believe consideration of alternative settlement options is appropriate at this time.[373] An additional commenter noted its agreement with the reasons the Commission's proposal provides for transitioning to T+2 rather than T+1, and concurred that the costs associated with the T+2 proposal are proportionate to the benefits to investors.[374] The commenter further stated that it was not sure a change to T+1 would justify the additional expense to investors at this time, but did not provide any data to support their statement.[375]

Two studies have examined the costs and benefits of a transition to a T+1 settlement cycle. The BCG Study examined the costs and benefits of a T+1 settlement cycle as an alternative to a T+2 settlement cycle, while the SIA T+1 Business Case, published in 2000, examined only a T+1 settlement cycle.

The BCG Study estimated that the transition to a T+1 settlement cycle would cost the industry $1.77 billion in incremental investments (compared to $550 million for a T+2 settlement cycle), with an annual operational cost savings of $175 million per year and $35 million from clearing fund reductions (compared to $170 million and $25 million per year in a T+2 settlement cycle, respectively). Risk reduction benefits were estimated to be $410 million for a T+1 settlement cycle (compared to $200 million per year in a T+2 settlement cycle).[376] Although the Commission believes that these numbers cannot be fully accepted as cost estimates for the amendment to Rule 15c6–1(a),[377] the magnitude of the difference between the BCG Study's T+2 and T+1 cost and benefit estimates likely indicate additional larger structural changes necessary to transition to a T+1 standard settlement cycle. However, the Commission notes that these studies evaluated technology and operations that were in use prior to 2012.

In addition, the SIA Business Case Report estimated the initial investment cost of a shortened standard settlement cycle to T+1 to be $8 billion, with net annual benefits of $2.7 billion per year. The report estimated that broker-dealers would have an initial investment of $5.4 billion, with net annual benefits of $2.1 billion per year; asset managers would have an initial investment of $1.7 billion, with net annual benefits of $403 million per year; custodians would have an initial investment of $600 million, with net annual benefits of $307 million per year; and infrastructure service providers would have an initial investment of $237 million, with net annual loss of $81 million per year.[378] Although the SIA estimates have higher costs and benefits than the estimates in the BCG Study, the SIA estimates were made in 2000, and are much older than the BCG Study estimates, which were made in 2012. In the seventeen years since the publication of the SIA Business Case Report, significant technological and industry changes may have affected the costs and benefits of a T+1 standard settlement cycle, which may limit the usefulness of the report's estimates for assessing the costs and benefits of a T+1 standard settlement cycle today.

Further, the Commission believes that a move to a T+1 standard settlement cycle could introduce certain financial risks and costs as a result of its impact on transactions in certain foreign markets. As discussed in the T+2 Proposing Release, the Commission believes that shortening the settlement cycle further than T+2 at this time may increase funding costs for market participants who rely on the settlement of foreign currency exchange (''FX'') transactions to fund securities transactions that settle regular way. As noted in the T+2 Proposing Release, because the settlement of FX transactions occurs on T+2, market participants who seek to fund a cross-border securities transaction with the proceeds of an FX transaction would, in a T+1 or T+0 environment, be required to settle the securities transaction before the proceeds of the FX transaction become available and would be required to pre-fund securities transactions in foreign currencies. Under these circumstances, a market participant would either incur opportunity costs and currency risk associated with holding FX reserves or be exposed to price volatility by delaying securities transactions by one business day to coordinate settlement of the securities and FX legs. In addition, shortening the settlement cycle to T+1 at this time may make it more difficult for market participants to timely settle cross-border transactions because the U.S. settlement cycle would not be harmonized with non-U.S. markets that have already transitioned to a T+2 settlement cycle.[379] The disparity between the settlement cycles would most likely increase the costs associated with such cross-border transactions.

The Commission agrees that a successful transition to a settlement cycle shorter than T+2 would require comparatively larger investments by market participants to adopt new systems and processes, and the additional lead time necessary to implement such an approach would delay the realization of the expected benefits from a reduction of credit, market, liquidity, and systemic risk that are expected to result from shortening the standard settlement cycle to T+2.[380] On balance, for the reasons discussed herein the Commission believes that it is appropriate to adopt a T+2 standard settlement cycle at this time. However,

[368] Thomson Reuters at 2, WFA at 3, MFA at 2, and DTCC Letter at 4.

[369] Thomson Reuters at 2.

[370] DTCC Letter at 3.

[371] *Id.*

[372] *Id.*

[373] WFA at 3.

[374] MFA at 2.

[375] *Id.*

[376] *See* BCG Study, *supra* note 247, at 41.

[377] *See supra* Part VI.C.5.a.

[378] *See* SIA Business Case Report at 3.

[379] For further discussion regarding the potential benefits of harmonization of settlement cycles for market participants engaging in cross-border transactions, *see supra* Part III.A.4.

[380] Conditional on the availability of data and information, the staff of the Commission will assess, among other things, the impact of the rule on financial risk management in its report to the Commission. *See* Part III.A.3.

the Commission believes that establishing a T+2 settlement cycle does not foreclose, and could promote, ongoing efforts by market participants to explore in a meaningful and considered manner the possibility of moving to further shorten the standard settlement cycle. Further, the Commission notes that the costs incurred to transition to a T+2 settlement cycle will likely impact the costs that may be incurred for future reductions in the settlement cycle.

2. Straight-Through Processing Requirement

The Commission has also considered the consequences of mandating specific clearance and settlement practices, such as STP, in lieu of the amendment to Rule 15c6–1(a). STP involves the electronic entry of trade details during the settlement process, which avoids the manual entry and re-entry of trade details. By avoiding the manual entry of trade details, STP can speed up the settlement process as well as reduce error rates. However, the Commission believes that although many of the costs and benefits of a T+2 standard settlement cycle could be achieved by mandating specific clearance and settlement practices, there are several reasons why mandating a shorter standard settlement cycle may substantively differ from a specific practice requirement.

First, the Commission believes that many of the amended rule's benefits stem directly from the fact that the length of the settlement cycle has been shortened, and not from the particular practices used to comply with the amendment. As discussed above in Part III.A, the Commission believes that shortening the standard settlement cycle is likely to reduce a number of risks associated with securities settlement, including credit and market risks that stem from counterparty exposures. Moreover, the Commission believes that intermediaries that manage these types of risk as a result of their role in the clearance and settlement system may share a portion of potential cost savings associated with reduced risks with market participants. While the Commission acknowledges that an alternative approach that primarily focuses on mandating STP may achieve some of the operational benefits associated with a shortened standard settlement cycle, such an approach may not reduce counterparty exposures and attendant risks.

Three of the commenters that have expressed support for a T+2 or shorter settlement cycle have identified STP as an important practice that would facilitate a shortened standard settlement cycle.[381] However, no commenter argued specifically for the Commission to mandate a STP requirement. While the Commission recognizes that STP may be a natural enabler for a shorter settlement cycle, it may not be the most efficient enabler available to firms. The Commission believes that market participants have a variety of methods to comply with a T+2 standard settlement cycle, and may prefer the least costly method of shortening the settlement cycle. By allowing market participants to choose how to comply with a shorter standard settlement cycle, rather than mandating a specific practice, the amendment to Rule 15c6–1(a) may allow the market to realize the benefits of a shorter standard settlement cycle at the lowest cost to market participants.

Additionally, mandating specific clearance and settlement practices instead of mandating a shortened standard settlement cycle may have adverse effects on competition in the market for back-office services. Back-office service providers may have a variety of methods to help their clients comply with a shorter settlement cycle, and mandating specific clearance and settlement practices may adversely affect the number of providers that market participants might use, and a reduction in competition among back-office service providers that can comply with required practices may result in higher compliance costs for market participants. One commenter specifically argued against a mandate on specific practices, citing to the potential for an adverse effect on competition and innovation for back-office services.[382]

VII. Final Regulatory Flexibility Analysis

This Final Regulatory Flexibility Analysis has been prepared in accordance with the Regulatory Flexibility Act (''RFA'').[383] It relates to the amendment to Rule 15c6–1(a) under the Exchange Act. An Initial Regulatory Flexibility Analysis (''IRFA'') was prepared in conjunction with the T+2 Proposing Release in September 2016.[384] The T+2 Proposing Release included, and solicited comment on, the IRFA.

A. Need for the Rule

The Commission is adopting the amendment to Rule 15c6–1(a) under the Exchange Act to achieve the benefits of shortening the standard settlement cycle to T+2 discussed above, such as the further reduction of credit, market, and liquidity risk, and as a result a reduction in systemic risk, for U.S. market participants.[385]

B. Summary of Significant Issues Raised by Public Comment

As noted above, the T+2 Proposing Release solicited comment on the IRFA. Although the Commission received no comments specifically concerning the IRFA, one commenter discussed the one-time costs introducing broker-dealers, a subset of which are small entities, may face to support the initial transition to a shorter settlement cycle.[386] This comment is discussed further below.

C. Description and Estimation of Number of Small Entities Subject to the Rule

Paragraph (c) of Rule 0–10 under the Exchange Act provides that, for purposes of Commission rulemaking in accordance with the provisions of the RFA, when used with reference to a broker or dealer, the Commission has defined the term ''small entity'' to mean a broker or dealer: (1) With total capital (net worth plus subordinated liabilities) of less than $500,000 on the date in the prior fiscal year as of which its audited financial statements were prepared pursuant to Rule 17a–5(d) under the Exchange Act,[387] or if not required to file such statements, a broker-dealer with total capital (net worth plus subordinated liabilities) of less than $500,000 on the last business day of the preceding fiscal year (or in the time that it has been in business, if shorter); and (2) is not affiliated with any person (other than a natural person) that is not a small business or small organization.[388]

The amendment to Rule 15c6–1(a) prohibits broker-dealers, including those that are small entities, from effecting or entering into a contract for the purchase or sale of a security (other than an exempted security, government security, municipal security, commercial paper, bankers' acceptances, or commercial bills) that provides for payment of funds and delivery of securities no later than the second business day after the date of the contract unless otherwise expressly agreed to by the parties at the time of the transaction. Currently, based on

[381] *See* ICI at 5; SIFMA at 14; Bloomberg at 2.

[382] Bloomberg at 2–3.

[383] 5 U.S.C. 604.

[384] *See* Proposing Release, *supra* note 1, 81 FR at 69279–80.

[385] *See* Part III *supra*.

[386] *See* SIFMA at 12.

[387] 17 CFR 240.17a–5(c).

[388] 17 CFR 240.0–10(d).

FOCUS Report [389] data, as of December 31, 2015, it is estimated that there are 1,235 broker-dealers that may be considered small entities.

D. Projected Reporting, Recordkeeping, or Other Compliance Requirements

The amendment to Rule 15c6–1(a) will not impose any new reporting or recordkeeping requirements on broker-dealers that are small entities. However, the amendment to Rule 15c6–1(a) may impact certain broker-dealers, including those that are small entities, to the extent that broker-dealers may need to make changes to their business operations and incur certain costs in order to operate in a T+2 environment.

For example, conversion to a T+2 standard settlement cycle may require broker-dealers, including those that are small entities, to make changes to their business practices, as well as to their computer systems, and/or to deploy new technology solutions. Implementation of these changes may require broker-dealers to incur new or increased costs, which may vary based on the business model of individual broker-dealers as well as other factors. Additionally, conversion to a T+2 standard settlement cycle may also result in an increase in costs to certain broker-dealers who finance the purchase of customer securities until the broker-dealer receives payment from its customers. To pay for securities purchases, many customers liquidate other securities or money fund balances held for them by their broker-dealers in consolidated accounts such as cash management accounts. However, some broker-dealers may elect to finance the purchase of customer securities until the broker-dealer receives payment from its customers for those customers that do not choose to liquidate other securities or have a sufficient money fund balance prior to trade execution to pay for securities purchases. Broker-dealers that elect to finance the purchase of customer securities may incur an increase in costs in a T+2 environment resulting from settlement occurring one day earlier unless the broker-dealer can expedite customer payments.

As discussed above, one commenter stated that introducing broker-dealers, including 1,235 firms that are small entities, may face a one-time cost to support the transition to a shorter settlement cycle.[390] The commenter estimated this cost, including education of employees and outreach to customers, to be $30,000 per introducing broker-dealer. The commenter also stated that introducing broker-dealers will benefit from the shorter settlement cycle by a reduction in liquidity risk and lower costs related to margin and other charges fees imposed by the introducing firm's clearing broker-dealer in association with managing credit risk. The commenter further stated that customers of introducing broker-dealers will realize significant benefits from a shorter settlement cycle, such as a more rapid return of the proceeds from a sale of a security.[391]

E. Description of Commission Actions To Minimize Effect on Small Entities

The Commission considered alternatives to the amendment that would accomplish the stated objectives of the amendment without disproportionately burdening broker-dealers that are small entities, including: Differing compliance requirements or timetables; clarifying, consolidating, or simplifying the compliance requirements; using performance rather than design standards; or providing an exemption for certain or all broker-dealers that are small entities. The purpose of Rule 15c6–1(a) is to establish a standard settlement cycle for broker-dealer transactions. Alternatives, such as different compliance requirements or timetables, or exemptions, for Rule 15c6–1(a), or any part thereof, for small entities would undermine the purpose of establishing a standard settlement cycle. For example, allowing small entities to settle at a time later than T+2 could create a two-tiered market that could work to the detriment of small entities whose order flow would not coincide with that of other firms operating on a T+2 settlement cycle. Additionally, the Commission believes that establishing a single timetable (*i.e.,* compliance date) for all broker-dealers, including small entities, to comply with the amendment is necessary to ensure that the transition to a T+2 standard settlement cycle takes place in an orderly manner that minimizes undue disruptions in the securities markets. With respect to using performance rather than design standards, the Commission used performance standards to the extent appropriate under the statute. In addition, under the amendment, broker-dealers have the flexibility to tailor their systems and processes, and generally to choose how, to comply with the rule.

VIII. Statutory Authority

The Commission is adopting an amendment to Rule 15c6–1 pursuant to the Commission's rulemaking authority set forth in Sections 15(c)(6), 17A and 23(a) of the Exchange Act [15 U.S.C. 78o(c)(6), 78q–1, and 78w(a) respectively].

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

Text of the Final Amendment

For the reasons stated in the preamble, Title 17, Chapter II of the Code of Federal Regulations is to be amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

■ 1. The general authority citation for part 240 continues to read as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78c–3, 78c–5, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l,* 78m, 78n, 78n–1, 78*o,* 78*o*–4, 78*o*–10, 78p, 78q, 78q–1, 78s, 78u–5, 78w, 78x, 78*ll,* 78mm, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, 7201 *et seq.,* and 8302; 7 U.S.C. 2(c)(2)(E); 12 U.S.C. 5221(e)(3); 18 U.S.C. 1350; Pub. L. 111–203, 939A, 124 Stat. 1376 (2010); and Pub. L. 112–106, sec. 503 and 602, 126 Stat. 326 (2012), unless otherwise noted.

* * * * *

■ 2. Amend § 240.15c6–1 by revising paragraph (a) to read as follows:

§ 240.15c6–1 Settlement cycle.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, a broker or dealer shall not effect or enter into a contract for the purchase or sale of a security (other than an exempted security, government security, municipal security, commercial paper, bankers' acceptances, or commercial bills) that provides for payment of funds and delivery of securities later than the second business day after the date of the contract unless otherwise expressly agreed to by the parties at the time of the transaction.

* * * * *

By the Commission.

Dated: March 22, 2017

Brent J. Fields,

Secretary.

[FR Doc. 2017–06037 Filed 3–28–17; 8:45 am]

BILLING CODE 8011–01–P

[389] FOCUS Reports, or ''Financial and Operational Combined Uniform Single'' Reports, are monthly, quarterly, and annual reports that broker-dealers generally are required to file with the Commission and/or SROs pursuant to Exchange Act Rule 17a–5, 17 CFR 240.17a–5.

[390] SIFMA at 12.

[391] *See* note 346 *supra* and accompanying text for further discussion of this comment.

FEDERAL REGISTER

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Part III

The President

Proclamation 9580—Greek Independence Day: A National Day of Celebration of Greek and American Democracy, 2017

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Presidential Documents

Title 3—

The President

Proclamation 9580 of March 24, 2017

Greek Independence Day: A National Day of Celebration of Greek and American Democracy, 2017

By the President of the United States of America

A Proclamation

This year marks the 196th anniversary of Greek independence. Greek and American democracy are forever intertwined. American patriots built our Republic on the ancient Greeks' groundbreaking idea that the people should decide their political fates.

As a young Nation, only recently free from Great Britain and securing its place on the world stage, America served as a source of inspiration for the revolutionary and freedom-loving Greeks who sought their own independence. Indeed, American citizens stood united with the people of Greece in its ''glorious cause'' of democracy and freedom, as expressed by Philadelphia's Franklin Gazette at the time.

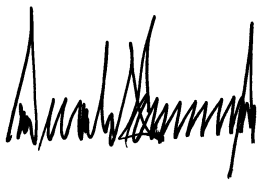
The ideas and ideals of the ancient Greeks altered the course of human history, from our own American Republic to the modern Greek state and many other nations. All those who believe in the refrain ''liberty and justice for all,'' and who are devoted to democracy and rule of law, owe a debt of gratitude to Greece and the foundational principles that took root in the ancient city-state of Athens.

On this Greek Independence Day, we express our deep gratitude for Greece's enduring friendship in a region that has experienced great uncertainty. Greece is an important partner in our engagements throughout the international sphere. We look forward to strengthening our excellent bilateral defense relationship, and recognize the value and importance Greece's role as a strong ally in the North Atlantic Treaty Organization.

The American people join Greece in celebrating another milestone in its independent history, and we look forward to a future of shared success as partners and allies.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim March 25, 2017, as Greek Independence Day: A National Day of Celebration of Greek and American Democracy. I call upon the people of the United States to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of March, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-first.



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