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Contents

Federal Register

Vol. 82, No. 64

Wednesday, April 5, 2017

Agriculture Department
See Food and Nutrition Service

Centers for Disease Control and Prevention
NOTICES
Meetings:
Disease, Disability, and Injury Prevention and Control Special Emphasis Panel, 16594–16595
Disease, Disability, and Injury Prevention and Control Special Emphasis Panel, 16594
Million Hearts Hypertension Control Challenge; Requirements and Registration, 16595–16597

Coast Guard
RULES
Port Access Route Study:
The Atlantic Coast from Maine to Florida, 16510–16512
Recreational Boat Flotation Standards:
Outboard Engine Weight Test Requirements; Update, 16512–16522
Special Local Regulations and Safety Zones:
Recurring Marine Events and Fireworks Displays Within the Fifth Coast Guard District, 16510
PROPOSED RULES
Great Lakes Pilotage Rates—2017 Annual Review, 16542–16550

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration
See National Telecommunications and Information Administration

Council on Environmental Quality
NOTICES
Guidance:
Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews; Withdrawal, 16576–16577

Defense Department
NOTICES
Meetings:
Industry Information Day, 16577

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
2008/18 Baccalaureate and Beyond Field Test, 16577–16578
Migrant Education Program Regulations and Certificate of Eligibility, 16578–16579

Employment and Training Administration
NOTICES
Meetings:
Native American Employment and Training Council; Workforce Innovation and Opportunity Act, 16624
Workforce Innovation Opportunity Act Title I Formula Allotted Funds for Dislocated Worker Activities for Program Year 2016; Reallotment, 16624–16627

Energy Department
See Energy Efficiency and Renewable Energy Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
State Energy Program, 16579
Application to Export Electric Energy:
DTE Energy Trading, Inc., 16579–16580

Energy Efficiency and Renewable Energy Office
NOTICES
Energy Conservation Program for Consumer Products:
Dyson, Inc., Waiver from the Battery Charger Test Procedure, 16580–16581

Environmental Protection Agency
NOTICES
Pesticide Tolerances:
Chlorpyrifos, 16581–16592

Federal Aviation Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Aging Aircraft Program (Widespread Fatigue Damage), 16656–16657
Aircraft Registration and Renewal, 16660–16661
Automatic Dependent Surveillance Broadcast Out Performance Requirements to Support Air Traffic Control Service, 16657–16658
Aviation Research Grants Program, 16659
Commercial Aviation Safety Team Safety Enhancements, 16657
Helicopter Air Ambulance, Commercial Helicopter, and Part 91 Helicopter Operations, 16659–16660
National Flight Data Center Web Portal, 16658–16659
Notice of Landing Area Proposal, 16660
Airport Property Releases:
South Texas Regional Airport, Hondo, TX; Correction, 16655–16656
Permanent Closures:
St. Marys Airport, St. Marys, GA, 16658
Petitions for Exemptions; Summaries, 16656

Federal Emergency Management Agency
NOTICES
Flood Hazard Determinations; Changes, 16605–16610, 16613–16620
Flood Hazard Determinations; Proposals, 16604–16605, 16610–16613

Federal Maritime Commission
NOTICES
Agreements Filed, 16592

Federal Motor Carrier Safety Administration
NOTICES
Qualification of Drivers; Exemption Applications:
Hearing, 16661–16662
Vision, 16662–16664

Federal Reserve System
NOTICES
Changes in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 16592–16593
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 16593–16594

Fish and Wildlife Service
RULES
Endangered and Threatened Species:
Reclassification of the West Indian Manatee from Endangered to Threatened, 16668–16704
Removal of the Scarlet-Chested Parrot and the Turquoise Parrot from the Federal List, 16522–16540
PROPOSED RULES
Endangered and Threatened Species:
Threatened Species Status for Yellow Lance, 16559–16569

Food and Drug Administration
NOTICES
Determinations that Products Were not Withdrawn from Sale for Reasons of Safety or Effectiveness:
CEDAX (Ceftibuten Dihydrate) For Oral Suspension, 90 Milligrams/5 Milliliters and 180 Milligrams/5 Milliliters, 16599–16600
Meetings:
Antibody Mediated Rejection in Kidney Transplantation; Public Workshop, 16597–16598
Food and Drug Administration/Xavier University Medical Device Conference (MedCon), 16599

Food and Nutrition Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Understanding the Anti-Fraud Measures of Large SNAP Retailers, 16570–16573

Health and Human Services Department
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency
See U.S. Customs and Border Protection
See U.S. Immigration and Customs Enforcement

Interior Department
See Fish and Wildlife Service
See Surface Mining Reclamation and Enforcement Office

International Trade Administration
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China and from Taiwan, 16573–16575

International Trade Commission
NOTICES
Complaints:
Certain Height–Adjustable Desk Platforms and Components Thereof, 16623–16624
Investigations; Determinations, Modifications, and Rulings, etc.:
Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from Japan and Romania, 16621–16622

Labor Department
See Employment and Training Administration
See Occupational Safety and Health Administration
See Workers Compensation Programs Office

Legal Services Corporation
NOTICES
Meetings; Sunshine Act, 16634–16635
Performance Criteria; Request for Comments on Performance Area 4, 16634

National Institutes of Health
NOTICES
Meetings:
National Institute of Biomedical Imaging and Bioengineering, 16600–16601
National Institute of Diabetes and Digestive and Kidney Diseases, 16601
National Institute on Minority Health and Health Disparities, 16601

National Oceanic and Atmospheric Administration
RULES
Fisheries of the Exclusive Economic Zone Off Alaska:
Pacific Cod by Catcher Vessels using Trawl Gear in Bering Sea and Aleutian Islands Management Area, 16540–16541
NOTICES
Meetings:
Atlantic Highly Migratory Species Advisory Panel, 16575

National Telecommunications and Information Administration
NOTICES
Meetings:
Commerce Spectrum Management Advisory Committee, 16575–16576

Nuclear Regulatory Commission
NOTICES
Draft Regulatory Guides:
Guidance for Developing Principal Design Criteria for Non-Light Water Reactors, 16636
Guidance:
Program-Specific Guidance about Licenses of Broad Scope, 16635–16636
License to Export Radioactive Waste:
UniTech Service Group, Inc., 16636–16637

Occupational Safety and Health Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Electric Power Generation, Transmission, and Distribution Standards for Construction and General Industry and Electrical Protective Equipment Standards for Construction and General Industry, 16627–16629

The Ethylene Oxide Standard, 16629–16630
Nationally Recognized Testing Laboratories:
MET Laboratories, Inc., 16630–16632

Presidential Documents
PROCLAMATIONS
Special Observances:
Cancer Control Month (Proc. 9581), 16705–16708
National Child Abuse Prevention Month (Proc. 9582), 16709–16710
National Donate Life Month (Proc. 9583), 16711–16712
National Financial Capability Month (Proc. 9584), 16713–16714
National Sexual Assault Awareness and Prevention Month (Proc. 9585), 16715–16716
World Autism Awareness Day (Proc. 9586), 16717–16718
EXECUTIVE ORDERS
Government Agencies and Employees:
Justice, Department of; Order of Succession (EO 13787), 16723–16724
Trade:
Antidumping and Countervailing Duties and Violations of Trade and Customs Laws; Enhanced Collection and Enforcement Efforts (EO 13785), 16719–16720
Omnibus Report on Significant Trade Deficits (EO 13786), 16721–16722

Securities and Exchange Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 16637–16638
Applications:
Angel Oak Funds Trust and Angel Oak Capital Advisors, LLC, 16642–16643
Winton Diversified Opportunities Fund and Winton Capital US LLC, 16648–16651
Self-Regulatory Organizations; Proposed Rule Changes:
Bats BZX Exchange, Inc., 16647–16648
Fixed Income Clearing Corporation, 16638–16642, 16644–16647
NYSE Arca, Inc., 16643–16644
The NASDAQ Stock Market LLC, 16651–16653

Social Security Administration
RULES
Anti-Harassment and Hostile Work Environment Case Tracking and Records System, 16509–16510

State Department
NOTICES
Designations as Global Terrorists:
Anjem Choudary, aka Abu Luqman, 16653
El Shafee Elsheikh also known as Shaf also known as Shafee, 16653
Sami Bashur Bouras also known as Wakrici also known as Khadim, 16653

Substance Abuse and Mental Health Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 16601–16602

Surface Mining Reclamation and Enforcement Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 16621

Surface Transportation Board
PROPOSED RULES
Expediting Rate Cases, 16550–16558

Tennessee Valley Authority
NOTICES
Records of Decisions:
Production of Tritium in Commercial Light Water Reactors, 16653–16655

Transportation Department
See Federal Aviation Administration
See Federal Motor Carrier Safety Administration

U.S. Customs and Border Protection
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
CBP Regulations Pertaining to Customs Brokers, 16603–16604
Cost Submission, 16602–16603

U.S. Immigration and Customs Enforcement
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Non-Immigrants Checkout Letter, 16620–16621

Veterans Affairs Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application for Reimbursement of National Exam Fee, 16665–16666
Compliance Inspection Report, 16664–16665
Time Record (Work-Study Program), 16665

Workers Compensation Programs Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 16633–16634
Meetings:
Advisory Board on Toxic Substances and Worker Health, 16632–16633

Separate Parts In This Issue

Part II
Interior Department, Fish and Wildlife Service, 16668–16704

Part III
Presidential Documents, 16705–16718

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

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CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Proclamations:

9581 16707
9582 16709
9583 16711
9584 16713
9585 16715
9586 16717

Executive Orders:

13775 (Revoked by EO 13787) 16723
13785 16719
13786 16721
13787 16723

20 CFR

401 16509

33 CFR

165 16510
167 16510
183 16512

46 CFR

Proposed Rules:

401 16542
403 16542
404 16542

49 CFR

Proposed Rules:

1104 16550
1109 16550
1111 16550
1114 16550
1130 16550

50 CFR

15 16522
17 (2 documents) 16522, 16668
679 16540

Proposed Rules:

17 16559

Rules and Regulations

Federal Register
Vol. 82, No. 64
Wednesday, April 5, 2017

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

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SOCIAL SECURITY ADMINISTRATION

20 CFR Part 401

[Docket No. SSA–2015–0014]

RIN 0960–AH82

Anti-Harassment and Hostile Work Environment Case Tracking and Records System

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: The Social Security Administration (SSA) is issuing a final rule to amend its Privacy Act regulation exempting portions of a system of records from certain provisions of the Privacy Act of 1974, entitled Anti-Harassment & Hostile Work Environment Case Tracking and Records System. Because this system will contain some investigatory material compiled for law enforcement purposes, this rule will exempt those records within this new system of records from specific provisions of the Privacy Act.

DATES: This final rule is effective on April 5, 2017.

FOR FURTHER INFORMATION CONTACT: Pamela J. Carcirieri, Supervisory Government Information Specialist, SSA, Office of Privacy & Disclosure, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, Phone: (410) 965–0355, for information about this rule. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

Background

We published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on December 2, 2016 (81 FR 86979).

In accordance with the Privacy Act (5 U.S.C. 552a) we also issued a public notice of our intent to establish a new system of records entitled, Anti-Harassment & Hostile Work Environment Case Tracking and Records System (Anti-Harassment System) (60–0380). (81 FR 87119). In order to exercise reasonable care to prevent and correct promptly any harassment, agencies must implement anti-harassment policies and procedures separate from the Equal Employment Opportunity process. Consequently, we are establishing the Anti-Harassment system to manage information regarding allegations of workplace harassment filed by SSA employees and SSA contractors alleging harassment by another SSA employee, as well as allegations of workplace harassment filed by SSA employees alleging harassment by an SSA contractor.

We are establishing the Anti-Harassment system as part of our compliance efforts under Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 (ADA); the ADA Amendments Act of 2008; the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act); and the Genetic Information Nondiscrimination Act of 2008 (GINA); and Executive Orders 11478, 11246, 13152, and 13087. These legal authorities prohibit discrimination, including harassment, based on sex, race, color, religion, national origin, age, disability, genetic information, or other protected basis.

The Anti-Harassment System will capture and house information regarding allegations of workplace harassment filed by SSA employees and SSA contractors alleging harassment by another SSA employee and any investigation, or response, we take because of the allegation. Due to the investigatory nature of information that will be maintained in this system of records, this rule adds the Anti-Harassment System to the list of SSA systems that are exempt from specific provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

Public Comments

We provided 30 days for the public to comment on the NPRM. The comment period ran from December 2, 2016 through January 3, 2016. We received one comment, but did not publish it as part of the regulatory record because it was not within the subject matter of the proposed rule.

Regulatory Procedures

Executive Order 12866, as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the criteria for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. Therefore, OMB did not review it.

We also determined that this final rule meets the plain language requirement of Executive Order 12866.

Executive Order 13132 (Federalism)

This final rule was analyzed in accordance with the principles and criteria established by Executive Order 13132, and SSA determined that the rule will not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. SSA also determined that this final rule will not preempt any State law or State regulation or affect the States' abilities to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

The regulations effectuating Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this final rule.

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities because it affects individuals only. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

Paperwork Reduction Act

These rules do not create any new or affect any existing collections and, therefore, do not require Office of Management and Budget approval under the Paperwork Reduction Act.

List of Subjects in 20 CFR Part 401

Privacy and disclosure of official records and information.

Nancy Berryhill,

Acting Commissioner of Social Security.

For the reasons stated in the preamble, we are amending subpart B of part 401 of title 20 of the Code of Federal Regulations as set forth below:

PART 401—PRIVACY AND DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION

Subpart B—[Amended].

■ 1. The authority citation for subpart B of part 401 continues to read as follows:

Authority: Secs. 205, 702(a)(5), 1106, and 1141 of the Social Security Act (42 U.S.C. 405, 902(a)(5), 1306, and 1320b–11); 5 U.S.C. 552 and 552a; 8 U.S.C. 1360; 26 U.S.C. 6103; 30 U.S.C. 923.

■ 2. Amend § 401.85 by adding paragraph (b)(2)(ii)(F) to read as follows:

§ 401.85 Exempt systems.

* * * * *

(b) * * *

(2) * * *

(ii) * * *

(F) Anti-Harassment & Hostile Work Environment Case Tracking and Records System, SSA.

* * * * *

[FR Doc. 2017–06719 Filed 4–4–17; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2015–0854]

Special Local Regulations and Safety Zones; Recurring Marine Events and Fireworks Displays Within the Fifth Coast Guard District

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone for the National Cherry Blossom Festival fireworks display taking place over the Washington Channel, Washington, DC, on April 15, 2017. The safety zone will include all waters within a 100 yard radius of the fireworks barge in approximate position latitude 38°52′43.67″ N., longitude 077°01′28.39″ W. This date and location is a change to those listed for the annually scheduled event, as indicated in U.S. Coast Guard regulations, because the event sponsor changed the scheduled date and location of this annual fireworks display. During the enforcement period, vessels may not enter, remain in, or transit through the safety zone unless authorized by the Captain of the Port or designated Coast Guard patrol personnel on scene. This action is necessary to ensure safety of life on navigable waters during the event.

DATES: The regulations in 33 CFR 165.506, listed as event (b.) 1, Washington Channel, Upper Potomac River, Washington, DC; Safety Zone, in the table to 33 CFR 165.506 will be enforced from 7:30 p.m. to 9:30 p.m. on April 15, 2017; and in the case of inclement weather enforcement will be from 7:30 p.m. to 9:30 p.m. on April 16, 2017.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Mr. Ron Houck, U.S. Coast Guard Sector Maryland-National Capital Region (WWM Division); telephone 410–576–2674, email *Ronald.L.Houck@uscg.mil.*

SUPPLEMENTARY INFORMATION: On February 22, 2017, and March 8, 2017, the Coast Guard was notified by the National Cherry Blossom Festival firework display sponsor that a change of date and location was necessary to those previously listed for the annually scheduled event, as indicated in 33 CFR 165.506. The location of the annual fireworks display is changed to approximately 550 yards upstream and its size is reduced, to include all waters of the Washington Channel within 100 yards radius of the fireworks barge in approximate position latitude 38°52′43.67″ N., longitude 077°01′28.39″ W., located in Washington, DC. The Coast Guard will enforce the safety zone in 33 CFR 165.506 from 7:30 p.m. until 9:30 p.m. on April 15, 2017, for the National Cherry Blossom Festival fireworks display. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulation for Recurring Marine Events and Fireworks Displays within the Fifth Coast Guard District, § 165.506, specifies the location of the regulated area for this safety zone as a circular shaped area that includes all waters of the Upper Potomac River, within 170 yard radius of the fireworks barge in approximate position latitude 38°52′20.3″ N., longitude 077°01′17.5″ W., located within the Washington Channel, at Washington Harbor, DC. As specified in § 165.506(d), during the enforcement period, vessels may not enter, remain in, or transit through the safety zone unless authorized by the Coast Guard Captain of the Port (COTP) or designated Coast Guard patrol personnel on scene. All persons and vessels shall comply with the instructions of the COTP, Coast Guard Patrol Commander or the designated on-scene-patrol personnel. Other Federal, State and local agencies may assist these personnel in the enforcement of the safety zone. If the COTP or his designated on-scene patrol personnel determines the regulated area need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

This notice of enforcement is issued under authority of 33 CFR 165.506(d) and 5 U.S.C. 552(a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide notification of this enforcement period via the Local Notice to Mariners and marine information broadcasts.

Dated: March 30, 2017.

Lonnie P. Harrison, Jr.,

Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.

[FR Doc. 2017–06696 Filed 4–4–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 167

[USCG–2011–0351]

Port Access Route Study: The Atlantic Coast From Maine to Florida

AGENCY: Coast Guard, DHS.

ACTION: Notification.

SUMMARY: The Coast Guard published a document on March 14, 2016, that announced the availability of the final report issued by the Atlantic Coast Port Access Route Study (ACPARS) workgroup. In addition, the Coast Guard requested comments concerning the final report. After a review of the comments received, the Coast Guard has determined that it is not necessary to revise the final report, and therefore considers it to be complete as published.

DATES: April 5, 2017.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notification, contact George Detweiler, Coast Guard, telephone (202) 372–1566 or email *George.H.Detweiler@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Background and Purpose. The Coast Guard commenced its work on the Atlantic Coast Port Access Route Study by chartering a workgroup (WG) on May 11, 2011. The Coast Guard published the WG's Interim Report in the **Federal Register** (77 FR 55781; Sep. 11, 2012), which provided a status of efforts up to that date. Subsequently, the Coast Guard published a notification in the **Federal Register** (81 FR 13307; Mar. 14, 2016) that announced the availability of the final report issued by the ACPARS WG. This document discusses the comments received and provides the Coast Guard's response to those comments. The final report is available on the **Federal Register** docket and also on the ACPARS Web site at *www.uscg.mil/lantarea/acpars.*

Discussion of Comments

Comments were submitted by representatives of the maritime community, wind energy developers, non-government organizations, Federal and State government agencies, academic institutions and private citizens.

Topics covered by the comments included the Coast Guard's role and relationship with the Department of Interior, Bureau of Ocean Energy Management (BOEM), the Coast Guard-developed Marine Planning Guidelines and navigation corridors, protection of right whales and continued public outreach.

Coast Guard Cooperation With Stakeholders and the Marine Planning Process

Some commenters urged the Coast Guard to coordinate and consult more closely with the other agencies associated with the development of offshore wind, particularly the BOEM to finalize the ACPARS report, and to utilize the Regional Planning Bodies to obtain broad feedback in evaluating navigation safety issues. We generally agree with these comments, but must state that throughout the ACPARS process, we have worked closely with BOEM in conducting this study and developing the final report. Additionally, broad stakeholder consultation must still be conducted on a case-by-case basis for each particular project proposed, as each will present unique circumstances and navigational risks.

The Coast Guard has participated and will continue to participate in a lead permitting agency's National Environmental Policy Act (NEPA) process as a subject matter expert for navigation safety, maritime security, maritime mobility (management of maritime traffic, commerce, and navigation), national defense, and protection of the marine environment. In the case of wind farms on the Outer Continental Shelf (OCS), BOEM is the NEPA lead permitting agency and is responsible for the evaluation of environmental impacts and preparation of associated environmental documentation. BOEM and the Coast Guard have entered into a Memorandum of Agreement (MOA) to identify their respective roles and responsibilities as members of BOEM/State Renewable Energy Task Forces for Wind Energy Area (WEA) identification, the issuance of leases and approval of Site Assessment Plans (SAPs), General Activity Plans (GAPs) and Construction and Operations Plans (COPs) for offshore renewable energy installations (OREIs). The Coast Guard will continue to work closely with BOEM in support of their Offshore Renewable Energy Program.

U.K. Marine Guidance Note 371 and Marine Planning Guidelines

Many commenters stated the Coast Guard premised its Marine Planning Guidelines (MP Guidelines) on Marine Guidance Note (MGN) 371, a United Kingdom (U.K.) publication that had been superseded, and further commented that the Coast Guard had misapplied MGN 371 in developing the MP Guidelines. Additionally, some of these comments suggested that the Coast Guard should revise the MP Guidelines to be consistent with MGN 543, which superseded MGN 371. As discussed below, we disagree with these comments.

The United Kingdom's Maritime and Coastguard Agency (MCA) published MGN 371 in August of 2008, well before we began the ACPARS process. Through the study, we determined that there was no single international standard for establishing safe navigation distances from permanent structures in the marine environment. With the development of European offshore wind farms, several different standards or guidelines evolved, and we considered each in development of the Coast Guard's MP Guidelines. In particular, we considered the guidance prepared by the Shipping Advisory Board Northsea, which was endorsed by the Confederation of European Shipmasters' Associations and used a formulaic approach that produces a 1.9 Nautical Mile (NM) distance from the side of a Traffic Separation Scheme (TSS) for a 400 meter vessel. The World Shipping Council recommended a minimum 2 NM safe distance from side of a Traffic Separation Scheme (TSS). We also considered the guidance prepared by the German Waterways and Shipping Directorate North West and North, which calls for a 2 NM setback to the side of a TSS, plus a 500 meter safety zone for each turbine. Last, we considered MGN 371, which throughout the study period reflected the current guidance of the U.K.'s MCA. Under MGN 371, the MCA considered a navigation buffer of 1 NM to 2 NM from the edge of a TSS to be medium risk, and greater than 2 NM to be low risk.

In January of 2016, after our work on the ACPARS was complete but before we released our final report for comment, the MCA published MGN 543, which superseded MGN 371. Through MGN 543, the MCA intended to simplify the Wind Farm Shipping Route Template (table, p. 13), which contained four columns and twelve defined distances associated with unique considerations (''Factors'') and degrees of risk ranging from very high to very low. The shipping route template in MGN 543 (p. 21) essentially consolidated the twelve safety distances to three, with less than 0.5 NM being ''intolerable'' and a range from 0.5 NM to 3.5 NM being ''tolerable'' if risks have been mitigated to a point termed ''as low as reasonably possible'' or ALARP. Last, the MGN 543 template considers distances beyond 3.5 NM to be ''broadly acceptable.''

Although some commenters may view MGN 543's revised template to have relaxed the recommended safe distances in MGN 371, we do not agree. Through MGN 543, the MCA sought to both simplify the template, and also make clear that generally there is a range of possible safe setback distances, and that a particular distance for any given wind farm would be determined by the unique circumstances of the project, which must be evaluated on a case-by-case basis.

Similarly, our MP Guidelines state that the Coast Guard will be a cooperating agency in the NEPA process wherein we will evaluate the Navigation Safety Risk Assessment unique to each proposed project, *i.e.,* on a case-by-case basis. After consideration of several European guidelines, we determined that a 2 NM setback from the side of a TSS was the appropriate guidance for offshore wind farm developers. This distance is consistent with the MCA 371's demarcation for low risk, it is in the middle of MGN 543's range for ''tolerable if ALARP'' and also consistent with the other European guidance we considered. As such, we do not intend to revise the MP Guidelines at this time.

It is important to note that the distances set forth in MGN 371, MNG 543 and our MP Guidelines are not standards, regulations or requirements of any type, but rather are guidance for developers to consider at the outset of a proposal. For example, both MGN 371 and MGN 543 state ''[t]his Guidance Note, as the name implies, is intended for the guidance of developers and others.'' See p. 3 of both Notes. In similar language, the MP Guidelines states on p. 1 ''[t]hese guidelines are provided to assist offshore developers and marine planners with their evaluation of the navigational impacts of any projects with multiple permanent fixed structures.'' Furthermore, on p. 6 of the MP Guidelines, we state ''[t]hese recommendations are based on generic deep draft vessel maneuvering characteristics and are consistent with existing European guidelines.''

As discussed above, the Coast Guard will evaluate each proposed project based upon the actual risks identified in the Navigation Safety Risk Assessment, and not by rigidly applying recommended distances from the MP Guidelines or any other similar guidance. Because our guidelines are neither regulations nor standards that must be applied, and because we view MGN 543 as a simplification of its predecessor, MGN 371, we do not believe it is necessary or prudent to revise our MP Guidelines at this time.

Navigation Corridors

Various comments were received concerning navigation corridors. Some commenters said the navigation corridors were too large, or simply not necessary, whereas others said they were essential to preserve clear shipping lanes. Prior to the advent of offshore wind development, there was no need for a coordinated routing system along the entire Atlantic seaboard, and existing traffic separation schemes at the entrances to major ports were adequate to manage collision risks for commercial vessel traffic. As the potential for conflicting uses of the Atlantic Ocean has increased, the Coast Guard must evaluate options to reduce associated risks to navigation and the environment. The ACPARS identified the routes typically used by tug and barge traffic and deep draft ocean-going vessels. The identified navigation corridors in the final report simply reflect areas historically used by commercial vessels. The ACPARS report recommends that the navigation corridors should be considered during marine planning activities and incorporated into Regional Ocean Plans to ensure appropriate consideration is given to shipping early in the project siting process. Some commenters have also suggested the Coast Guard apply the data and recommendations from the ACPARS to the marine planning process, and we agree with those comments.

The ACPARS report also recommended that the Coast Guard use the identified navigation corridors to establish shipping safety fairways (areas where permanent structures are not permitted) or other appropriate ships' routing measures. The Coast Guard is considering these recommendations, but has not yet determined if or how it may move forward on such routing measures. In the event the Coast Guard determines that shipping safety fairways or other routing measures must be further explored, it will engage all relevant stakeholders and ultimately commence a formal rulemaking process that will provide ample notice and opportunity for public and other stakeholder comment, and a thorough environmental review.

Protection of Right Whales

The Coast Guard received comments suggesting that offshore navigation corridors for deep draft traffic could endanger North Atlantic right whales if the corridors divert vessel traffic around wind farms into areas where these endangered whales tend to migrate. Although the offshore navigation corridors identified simply reflect existing vessel traffic patterns already in use, the Coast Guard would consult with National Oceanic and Atmospheric Administration, interagency partners and other stakeholders through the NEPA and marine planning processes as a necessary part of any action to formally establish routing measures associated with the ACPARS or particular wind farm proposals.

Continued Public Outreach

Some commenters recommended that the Coast Guard continue outreach efforts with affected states and federal agencies, the marine shipping industry, the wind energy industry and the general public, which could include participation in stakeholder outreach activities, public meetings, workshops and industry meetings and conferences. The Coast Guard concurs with the recommendation and will continue its outreach program through the Regional Planning Bodies.

Summary

For the foregoing reasons, the Coast Guard considers the ACPARS report to be complete and will not make changes to it at this time.

This notification is issued under authority of 33 U.S.C. 1223(c) and 5 U.S.C. 552.

Dated: March 31, 2017.

Michael D. Emerson,

Director, Marine Transportation Systems, U.S. Coast Guard.

[FR Doc. 2017–06738 Filed 4–4–17; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 183

[Docket No. USCG–2016–1012]

RIN 1625–AC37

Recreational Boat Flotation Standards—Update of Outboard Engine Weight Test Requirements

AGENCY: Coast Guard, DHS.

ACTION: Interim rule.

SUMMARY: The Coast Guard is issuing this interim rule to update the table of outboard engine weights used in calculating safe loading capacities and required amounts of flotation material. The engine weight table was last updated in 1984, and the Coast Guard Authorization Act of 2015 requires that we update the table to reflect a specific standard.

DATES: This interim rule is effective on June 1, 2018. Comments and related material must be submitted to the online docket via *http://www.regulations.gov,* or reach the Docket Management Facility, on or before July 5, 2017.

ADDRESSES: You may submit comments identified by docket number USCG–2016–1012 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: For information about this document call or email Mr. Jeffrey Ludwig, Coast Guard; telephone 202–372–1061, email *Jeffrey.A.Ludwig@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Abbreviations
II. Basis and Purpose
III. Regulatory History
IV. Background
V. Discussion of Rule
VI. Regulatory Analyses
A. Regulatory Planning and Review

B. Small Entities
C. Assistance for Small Entities
D. Collection of Information
E. Federalism
F. Unfunded Mandates Reform Act
G. Taking of Private Property
H. Civil Justice Reform
I. Protection of Children
J. Indian Tribal Governments
K. Energy Effects
L. Technical Standards
M. Environment
VII. Public Participation and Request for Comments

I. Abbreviations

ABYC American Boat and Yacht Council
ABYC S–30 American Boat and Yacht Council S–30—Outboard Engines and Related Equipment Weights
CGAA Coast Guard Authorization Act of 2015 (Pub. L. 114–120, 130 Stat. 27; Feb. 8, 2016)
CFR Code of Federal Regulations
DHS Department of Homeland Security
E.O. Executive Order
FR Federal Register
IRFA Initial Regulatory Flexibility Analysis
MIC Manufacturer Identification Code
NAICS North American Industry Classification System
NBSAC National Boating Safety Advisory Council
NMMA National Marine Manufacturers Association
OMB Office of Management and Budget
Pub. L. Public Law
RA Regulatory analysis
§ Section symbol
SBA Small Business Administration
U.S.C. United States Code

II. Basis and Purpose

Section 308 of the Coast Guard Authorization Act of 2015 (Pub. L. 114–120, 130 Stat. 27) (CGAA) requires the Coast Guard to issue regulations, not later than 180 days after enactment, updating Table 4 of subpart H in Title 33 of the Code of Federal Regulations (CFR) part 183 to reflect the American Boat and Yacht Council S–30—Outboard Engines and Related Equipment Weights (ABYC S–30) standard.

Additionally, 46 U.S.C. 4302(b), which provides authority for 33 CFR part 183, requires the effective date for rules issued under that provision be delayed at least 180 days after publication, but not more than 2 years for cases involving major product design, retooling, or changes in the manufacturing process. It also requires consultation with the National Boating Safety Advisory Council (NBSAC).[1] Although this rule is issued pursuant to CGAA and not 46 U.S.C. 4302, it amends regulations issued pursuant to section 4302 and the 180-day delay is appropriate. The delay provides manufacturers with time to adjust their operations to comply with the new standard. We have implemented that delay of effective date in this rule.

III. Regulatory History

We did not publish a notice of proposed rulemaking before this interim rule. The Coast Guard finds good cause to forgo prior notice and opportunity to comment under 5 U.S.C. 553(b)(B), because section 308 of CGAA provides the Coast Guard no discretion in adopting the specific industry standard for engine weights. The Coast Guard may not decline to update the engine weight standards, choose to adopt a different standard, or respond to public comments by modifying the substance of the rule. Because the Act does not allow for alternatives; the Coast Guard may not adopt a different standard or modify the substance of the rule in response to public comments. Therefore, it was unnecessary and impracticable to provide the public with notice and opportunity to comment before publishing this interim rule.

This rule also relocates the relevant table within the CFR, and makes similar administrative changes that have no substantive effect on the public. Because these changes do not create or change any rights or responsibilities for the public, prior notice and opportunity to comment are unnecessary under 5 U.S.C. 553(b)(B). However, the Coast Guard is interested in the public's views on these changes.

In addition, we are delaying the effective date of this rule until June 1, 2018, for two reasons: (1) To meet the intent of 46 U.S.C. 4302(b), as described earlier in this rule, and (2) to align with the recreational boat model year so that requirements do not change during a model year production run. The delay in effective date allows time for a post-publication comment period and for non-substantive changes if needed.

Therefore, even though 5 U.S.C. 553 allows the Coast Guard to forgo notice and opportunity for comment prior to issuing this rule, we invite public comment on the interim rule. We will not have the authority to change the substance of the rule—for example, the specific weight standard used—in response to public comment, because that requirement is set in statute. However, we invite public comment on other aspects of the rule, such as changes we have made to cross-references, and we may make changes after considering those comments. We believe this strikes the best balance between satisfying the statute, putting a rule in place soon so that manufacturers can plan ahead, and allowing public comment to the extent we are permitted by CGAA.

IV. Background

Congress has authorized the Coast Guard to prescribe regulations establishing minimum safety standards for recreational vessels and associated equipment. In 1977, the Coast Guard established flotation requirements for boats less than 20 feet in length, and established a weight table (Table 4 of subpart H in 33 CFR part 183) used to assist the boat manufacturer in determining the amount of flotation to be included in a boat's design and construction.

Table 4 was last updated in 1984, but the size and weight of outboard engines has evolved over the years to the point that Table 4 no longer accurately represents the weights of outboard engines available on the market.

The American Boat and Yacht Council (ABYC) is a non-profit organization that develops voluntary safety standards for the design, construction, maintenance, and repair of recreational boats. Among the voluntary safety standards that ABYC develops and updates on a regular basis is S–30—Outboard Engines and Related Equipment Weights (ABYC S–30). This standard reflects the current state of marine outboard engine weights.

V. Discussion of Rule

This rulemaking adopts the current ABYC S–30 to replace Table 4 of subpart H in 33 CFR part 183. The current ABYC S–30 is dated July 2012, and was the standard in effect on the date of enactment of the Act.

In the CFR, Table 4 applies to monohull outboard boats that are less than 20 feet in length, which includes recreational vessels as well as some commercial fishing vessels. It is also used indirectly for flotation requirements for survival craft covered by 46 CFR part 25 (uninspected vessels), 46 CFR part 117 (small passenger vessels carrying more than 150 passengers), 46 CFR part 141 (towing vessels) and 46 CFR part 180 (small passenger vessels under 100 gross tons). Changing the figures in Table 4, as required by the Act, will require more flotation in each new boat, to support the weight of heavier engines.

This rule removes Table 4 and replaces it with a new section in subpart E of part 183. That section contains the table of the ABYC S–30 standard and its corresponding footnotes. We made minor edits to the footnotes developed

[1] The NBSAC recommended to the Coast Guard in 2000 that the weight table be updated (Resolution number 2000–66–05), and discussed the replacement of Table 4 with the ABYC standard at their April 2016 meeting.

by ABYC to accommodate the location of the table in the CFR and to reflect the removal of Table 4. We also made conforming changes to several sections that referenced Table 4.

VI. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders (E.O.s) related to rulemaking. Below we summarize our analyses based on these statutes or E.O.s.

A. Regulatory Planning and Review

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') 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 (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. Executive Order 13771 (''Reducing Regulation and Controlling Regulatory Costs'') directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.''

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget (OMB) has not reviewed it. As this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. *See* OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017). A regulatory analysis (RA) follows.

This RA provides an evaluation of the economic impacts associated with this interim rule. The Coast Guard is issuing an interim rule to implement section 308 of the CGAA. The CGAA mandates that the Coast Guard issue regulations to amend Table 4 of subpart H in 33 CFR part 183 to reflect the standards in ABYC S–30. Consequently, 100% of the costs of this rule are due to a Congressional mandate and the Coast Guard has no discretion to adopt a different standard that would lower the cost of this rule. Changes in the design and construction of modern outboard engines necessitate a change in the table of outboard engine weights used in calculating safe loading capacities and required amounts of flotation material in the Safe Loading and Flotation Standards found in 33 CFR part 183, subparts G and H.

Table 1 of this document provides a summary of the affected population, costs, and benefits of this rule.

TABLE 1—SUMMARY OF THE IMPACTS OF THE INTERIM RULE

Category	Summary
Applicability	Update Table 4 of subpart H in 33 CFR part 183 with ABYC S–30.
Affected Population	1,427 manufacturers of monohull outboard boats of less than 20 feet in length.
Costs to Industry ($, 7% discount rate).	10-year: $6,624,488. Annualized: $943,178.
Unquantified Benefits	Creates uniformity by aligning all boats to the same standard. Brings those boats not currently in compliance with ABYC S–30 to a higher level of safety than the standard currently in regulation.

Affected Population

This interim rule will adopt the current ABYC S–30 to replace Table 4 of subpart H in 33 CFR part 183. Table 4 applies to monohull outboard boats that are less than 20 feet in length, including recreational vessels and some commercial fishing vessels.

Table 4 is also used indirectly for flotation requirements for survival craft covered by 46 CFR part 25 (uninspected vessels), 46 CFR part 117 (small passenger vessels carrying more than 150 passengers), 46 CFR part 141 (towing vessels), and 46 CFR part 180 (small passenger vessels under 100 gross tons). Small passenger vessels are required to carry certain survival craft, depending on their route and construction, in order to have the capacity to evacuate a certain percentage of the number of people on board. These survival craft are generally life rafts or floats, which do not have engines and are not impacted by this interim rule. However, small passenger vessels could voluntarily carry a small boat that can be used to carry some of the passengers, thereby reducing the number of other survival craft they are required to carry (46 CFR 117.200(b) and 46 CFR 180.200(b)). Because this is a voluntary option available for these vessels, we do not include them in our analysis. However, we do note that if the uninspected vessels, small passenger vessels carrying more than 150 passengers, towing vessels, or small passenger vessels under 100 gross tons choose to carry a small boat on board that does not meet ABYC S–30 standard, they could be indirectly affected by this interim rule. Because this interim rule applies only to new boats manufactured after June 1, 2018, any small passenger vessels already carrying small boats subject to Table 4 of subpart H will not be affected. If they choose to replace their small boat with a boat built after June 1, 2018, they may be indirectly affected if the manufacturer passes the costs of this interim rule on to the consumers. We account for the direct costs to manufacturers in this analysis.

The interim rule will affect manufacturers that produce monohull outboard boats that are less than 20 feet in length and that are not currently building boats to ABYC S–30 standard. The Coast Guard used the list of active Manufacturer Identification Code (MIC) holders, as required by 33 CFR part 181, subpart C, to determine the affected population. This list represents all recreational boat MICs that are currently active. We then removed any MICs that will not be affected by this rule from the list of manufacturers. This includes: (1) Manufacturers with multiple MICs; (2) MICs belonging to manufacturers that only build boats greater than 20 feet in length; (3) MICs belonging to manufacturers that do not build monohull outboard boats; and (4) MICs belonging to manufacturers that only produce boats exempted from this regulation by 33 CFR 183.201(b), including sailboats, canoes, kayaks, inflatable boats, submersibles, surface effect vessels, amphibious vessels, and raceboats. We found there are no more

than 1,519 affected manufacturers that produce monohull outboard boats that are less than 20 feet in length.

Some of these 1,519 monohull manufacturers are currently in compliance with ABYC S–30 standard, and therefore will not incur additional costs because of this rule. The National Marine Manufacturers Association (NMMA) requires its members to build boats to the ABYC standard.[2] These NMMA builders produce about 85 percent of the recreational boats built each year.[3] We found 92 monohull manufacturers that are currently NMMA members and therefore we assume they are in compliance. We assume the remaining 1,427 monohull manufacturers are not compliant with the current voluntary standard and will be affected by this rule.

Costs to Industry

This interim rule will adopt the current ABYC S–30, to replace Table 4 of subpart H. This change will increase costs to 1,427 monohull manufacturers that are assumed to be not in compliance. The increase in the weight table figures will require an additional 1 to 2 cubic feet of flotation to be added to each boat manufactured after the implementation date of June 1, 2018. We estimate the foam for the additional flotation will cost an average of $10 per boat.[4] Some manufacturers may need to make minor adjustments such as enclosing an aft seat and adding foam under the seat to accommodate the additional foam in the boats. Therefore, Coast Guard uses an estimate of $50 per boat to account for the foam and any minor adjustments that may be necessary.[5] Manufacturers could incur costs related to determining where to put the additional flotation on a vessel, but we believe redesign costs would not be needed as the additional flotation material is minimal and the placement of the material is fairly standard. The manufacturers are already required to add flotation to boats, so there will be no costs for new equipment, facilities, or retrofitting of facilities.

To estimate the total cost to industry, we then estimated the total number of outboard boats less than 20 feet in length manufactured per year by the monohull manufacturers that are not in compliance. The Coast Guard used data from the NMMA's 2015 Recreational Boating Statistical Abstract[6] to estimate the total affected outboard boats. The NMMA breaks down outboard boat sales by two hull materials: Fiberglass and aluminum. The NMMA estimates that in 2015, 51,300 fiberglass outboard boats and 104,500 aluminum outboard boats were sold. Of these boats sold, 42.7 percent of the fiberglass outboard boats and 60.4 percent of the aluminum outboard boats were less than 20 feet in length. Multiplying the percentage market share of boats less than 20 feet by the total sales of boats by material, we found there were 21,905 fiberglass boats and 63,118 aluminum outboard boats less than 20 feet sold in 2015 (see Table 2).

TABLE 2—TOTAL SALES AND MARKET SHARE OF OUTBOARD BOATS BY MATERIAL TYPE

Outboard boat by material	Estimated total sales	Percentage market share outboard boats less than 20 feet	Total outboard boats less than 20 feet sold in 2015
Fiberglass	51,300	42.7	21,905
Aluminum	104,500	60.4	63,118
Total	155,800		85,023

The total 85,023 outboard boats less than 20 feet that were sold in 2015 were produced by a mix of manufacturers that are already in compliance with the ABYC S–30 standard and manufacturers that are not in compliance and will be impacted by this rule. The NMMA estimates that around 85 percent of the boats sold in the United States are already in compliance with the ABYC S–30 standard. Therefore, the Coast Guard estimates 15 percent of the total outboard boats less than 20 feet sold were produced by manufacturers not in compliance with the ABYC standard. These 12,753 boats (15 percent of the 85,023 outboard boats less than 20 feet, rounded) will require $50 of additional flotation materials to align with the new standard.

To estimate the affected outboard boats over our 10-year period of analysis, we used NMMA data to forecast future boat building production.[7] The NMMA anticipates annual production will rise through at least 2018 before leveling off into at least early 2019. The NMMA does not have estimates for production past 2019. Since the NMMA anticipates production will plateau once it reaches the levels of production estimated in 2019, the Coast Guard assumes production will hold at 2019 levels. Production could decrease or increase, resulting in higher or lower industry costs, but for the purposes of this analysis we assume production remains constant past 2019. Table 3 shows our baseline affected population, the forecasted percentage increases over the previous year estimated by NMMA, and the resulting number of affected outboard boats.[8]

[2] *See* Michael Vatalaro, *What ''NMMA-Certified'' Really Means,* BoatUS, Feb. 2014, *http://www.boatus.com/magazine/2014/february/what-nnma-certified-means.asp.*

[3] *Id.*

[4] The $10 estimate is based on 2 LB Density Urethane Foam estimates from US Composites (*http://www.uscomposites.com/foam.html*) and conversations with manufacturers. Foam prices vary based on the size of the kits. The cost of kits range from a 2 cubic foot kit cost of $22.50 ($11.25 per cubic foot) to $264 for a 40 cubic foot kit ($6.60 per cubic foot). Conversations with manufacturers confirmed $10 is a reasonable average estimate for adding 1 to 2 cubic feet of additional flotation, that takes into account the varying costs based on the size of kits purchased and that manufacturers may pay less than the listed prices based on their purchasing agreements with the suppliers.

[5] Based on discussions with manufacturers, the additional $40 estimate is to cover the cost of enclosing a rear seat to add flotation foam under it or to add small chambers, especially on open aluminum boats, to accommodate the additional flotation foam.

[6] A summary of the NMMA abstract is available at *https://www.nmma.org/statistics/publications/statistical-abstract.* The full report is available for purchase through NMMA. The Coast Guard used data from Powerboat Sales Trends, Table 1: Outboard boats: Estimated sales by hull market; Table 2: Fiberglass outboard boats: Estimated market share by length; and Table 3: Aluminum outboard boats: Estimated market share by length.

[7] Production forecasts are internal NMMA estimates that were provided to the Coast Guard on 9/7/2016.

[8] Forecasted percentages for 2016 and 2019 were given in NMMA data. Forecasted percentages for years 2017 and 2018 were calculated from NMMA's forecasted annual production index. For 2017, the affected outboard boats manufactured annually are

Continued

TABLE 3—FORECASTED AFFECTED OUTBOARD BOATS

Year	Forecasted percentage increase over previous year	Affected outboard boats manufactured annually
2015	.....	12,753
2016	11.6	14,232
2017	15.2	16,402
2018	9.2	17,916
2019	6.1	19,009
2020+	0.0	19,009

As this interim rule will be effective June 1, 2018, any outboard boats manufactured after this date will need to be in compliance with ABYC S–30 standard. The Coast Guard anticipates most manufacturers will begin making the necessary changes at the beginning of 2018. All manufacturers will be in compliance by June 1, 2018 of Year 1, which corresponds with the 2018 estimated affected outboard boats in Table 3. We estimate there will be 17,916 affected outboard boats in Year 1 and 19,009 affected outboard boats in Years 2 through 10. Table 4 summarizes the estimated affected population of outboard boats that we used to estimate the 10-year costs of this interim rule.

TABLE 4—TEN-YEAR PROJECTION OF AFFECTED OUTBOARD BOATS

Year	Affected outboard boats
1	17,916
2	19,009
3	19,009
4	19,009
5	19,009
6	19,009
7	19,009
8	19,009
9	19,009
10	19,009

We then multiplied the projected number of affected outboard boats each year in Table 4 by the estimated cost per boat of $50. Table 5 shows the total costs of this interim rule on an undiscounted basis, and discounted at 7 and 3 percent.

TABLE 5—TOTAL COSTS OF INTERIM RULE

Year	Total undiscounted costs	Total, discounted	
		7%	3%
1	$895,800	$837,196	$869,709
2	950,450	830,160	895,840
3	950,450	775,850	869,796
4	950,450	725,094	844,463
5	950,450	677,658	819,867
6	950,450	633,325	795,987
7	950,450	591,892	772,803
8	950,450	553,171	750,294
9	950,450	516,982	728,441
10	950,450	483,161	707,224
Total	9,449,850	6,624,488	8,054,473
Annualized	.....	943,178	944,230

Note: Totals may not sum due to independent rounding.

The total 10-year undiscounted cost of this interim rule is $9,449,850. The total 10-year discounted cost of this interim rule is $6,624,488 and the annualized cost is $943,178, both discounted at 7 percent. The manufacturers of outboard boats less than 20 feet in length not in compliance with ABYC S–30 standard will bear these costs. However, it is possible that manufacturers may pass these costs onto the recreational boat owners by incorporating the additional costs of this interim rule into the sales price. The sale price of the affected boats can range from $3,000 through $50,000. If we use an average of $26,500 per boat, the $50 average cost per boat represents 0.2 percent of the sales price. However, 85 percent of the boats sold in the United States are already in compliance and include this cost of floatation in the sales prices.

Benefits

This rule does not provide any quantitative benefits. However, it does have qualitative benefits. This rule will create uniformity by aligning all boats to the same standard. The ABYC S–30 provides a higher level of safety than that provided by the standard currently in the regulation. Requiring all boats less than 20 feet in length that currently do not meet ABYC S–30 standard weights to comply with that standard

calculated as [1 + ((170.1 − 147.6)/147.6)] * 14,232 = 16,402, rounded. For 2018, the affected outboard boats manufactured annually are calculated as [1 + (185.8 − 170.1)/170.1] * 16,402, rounded.

will improve the buoyancy of these boats, and therefore, improve their safety.

B. Small Entities

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard prepared this Initial Regulatory Flexibility Analysis (IRFA) that examines the impacts of the interim rule on small entities (5 U.S.C. 601 *et seq.*). We recognize that an IRFA is not required for an interim rule that was not preceded by a general notice of proposed rulemaking. We are including an analysis of the interim rule requirements on small entities for informational purposes.

A small entity may be: a small independent business, defined as independently owned and operated, is organized for profit, and is not dominant in its field per the Small Business Act (5 U.S.C. 632); a small not-for-profit organization (any not-for-profit enterprise which is independently owned and operated and is not dominant in its field); or a small governmental jurisdiction (locality with fewer than 50,000 people) per the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612.

An IRFA addresses the following:

(1) A description of the reasons why action by the agency is being considered;

(2) A succinct statement of the objectives of, and legal basis for, the rule;

(3) A description of and, where feasible, an estimate of the number of small entities to which the rule will apply;

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

(5) An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap or conflict with the rule; and

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

1. A description of the reasons why action by the agency is being considered.

Congress has authorized the Coast Guard to prescribe regulations establishing minimum safety standards for recreational vessels and associated equipment. In 1977, the Coast Guard established flotation requirements for boats less than 20 feet in length, and established a weight table (Table 4 of subpart H in 33 CFR part 183) used to assist the boat manufacturer in determining the amount of flotation to be included in a boat's design and construction.

Table 4 was last updated in 1984, but the size and weight of outboard engines has evolved over the years to the point where Table 4 no longer accurately represents the weights of outboard engines available on the market. Changes in the design and construction of modern outboard engines necessitate a change in the table of outboard engine weights used in calculating safe loading capacities and required amounts of flotation material in the Safe Loading and Flotation Standards found in 33 CFR part 183, subparts G and H.

2. A succinct statement of the objective of, and legal basis for, the rule.

Congress has authorized the Coast Guard to prescribe regulations establishing minimum safety standards for recreational vessels and associated equipment. Section 308 of the CGAA requires the Coast Guard to issue regulations updating Table 4 of subpart H in 33 CFR part 183 with ABYC S–30 not later than 180 days after enactment. This rulemaking will adopt the current ABYC S–30 to replace Table 4. The current ABYC S–30 is dated July 2012. Table 4 of subpart H applies to monohull outboard boats that are less than 20 feet in length, which includes recreational vessels as well as some commercial fishing vessels. It is also used indirectly for flotation requirements for survival craft covered by 46 CFR part 25 (uninspected vessels), 46 CFR part 117 (small passenger vessels carrying more than 150 passengers), 46 CFR part 141 (towing vessels), and 46 CFR part 180 (small passenger vessels under 100 gross tons).

3. A description of and, where feasible, an estimate of the number of small entities to which the rule will apply.

This interim rule will affect manufacturers that produce monohull outboard boats that are less than 20 feet in length that are not currently building boats to ABYC S–30 standard.

Based on Coast Guard's list of active MIC holders, we estimate this interim rule will affect 1,427 U.S. companies. We researched the number of employees and revenue of these companies using proprietary and public business databases.[9] We then measured company size data using the Small Business Administration's (SBA) business size standards to assess how many companies in this industry may be small entities.[10] The SBA provides business size standards for all sectors of the North American Industry Classification System (NAICS).[11]

Using a random sample of companies out of the total population of 1,427 affected U.S. companies, we researched 749 companies and found company-specific revenue and employment information and data on 388 of them.[12] We assumed that the remaining 361 companies (for which the revenue and employment information was unavailable) are small entities for the purpose of this analysis. Of the 388 companies for which revenue and employment information was available, we found three entities that exceeded the small entity thresholds for their relevant NAICS code. The remaining 385 companies are small entities as defined by the SBA thresholds. Adding these small entities to the companies without revenue and employment information, we estimate a total of 746 of the companies are small entities. Using the results of this random sample, we calculated the fraction of small entities by dividing the total small entities by the sample size. Therefore, we estimate that 99.6 percent of all monohull companies not currently building to ABYC S–30 standard fall below the threshold for small businesses. Table 6 summarizes the findings of our small entity threshold analysis.

TABLE 6—NUMBER OF COMPANIES AND SMALL ENTITIES RESEARCHED

Category	Number of companies
(a) Sample Size	749
(b) Without Revenue or Employment Data	361
(c) With Revenue or Employee Data	388

[9] *Data sources:* ReferenceUSA (*www.referenceusagov.com*) and Manta (*www.manta.com*).

[10] "Small entities" include small businesses that meet the Small Business Administration size standard for small business concerns at 13 CFR 121.201, small governmental jurisdictions with a population of less than 50,000, and small organizations that are independently owned not-for-profit enterprises and which are not dominant in their field. *See* 5 U.S.C. 601(3)–(5).

[11] SBA size standards are matched to NAICS, effective February 26, 2016. *See Contracting: Table of Small Business Size Standards,* Small Business Administration, *https://www.sba.gov/content/small-business-size-standards.*

[12] Using a 95 percent confidence level, a sample size of 385 companies is sufficient. Our research started with a random sample of 749 companies that yielded 388 entities for which requisite information was found.

TABLE 6—NUMBER OF COMPANIES AND SMALL ENTITIES RESEARCHED—Continued

Category	Number of companies
(d) Exceeded Small Entity Threshold	3
(e) Below the Small Business Threshold	385

TABLE 6—NUMBER OF COMPANIES AND SMALL ENTITIES RESEARCHED—Continued

Category	Number of companies
Total Small Entities, (b) + (e)	746
Total, (a)	749
Fraction Small Entities	99.6%

Our analysis of the available company information revealed 64 primary NAICS codes. Table 7 displays the NAICS codes of the small entities found in our sample.

TABLE 7—NAICS CODES OF IDENTIFIED SMALL ENTITIES

Title	NAICS Code	Count of companies	SBA size standard type	SBA size threshold
Boat Building	336612	151	Employees	1,000
Boat Dealers	441222	56	Revenue	$32,500,000
Other Personal and Household Goods Repair and Maintenance	811490	32	Revenue	$7,500,000
Marinas	713930	28	Revenue	$7,500,000
All Other Support Services	561990	14	Revenue	$11,000,000
Mineral Wool Manufacturing	327993	11	Employees	1,500
Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance.	811310	8	Revenue	$7,500,000
All Other Miscellaneous Manufacturing	339999	5	Employees	500
Fabricated Structural Metal Manufacturing	332312	4	Employees	500
New Single-family Housing Construction (Except For-Sale Builders)	236115	3	Revenue	$36,500,000
All Other Plastics Product Manufacturing	326199	3	Employees	750
Sporting and Recreational Goods and Supplies Merchant Wholesalers	423910	3	Employees	100
Other Miscellaneous Durable Goods Merchant Wholesalers	423990	3	Employees	100
Other Building Material Dealers	444190	3	Revenue	$20,500,000
Engineering Services	541330	3	Revenue	$15,000,000
All Other Business Support Services	561499	3	Revenue	$15,000,000
Site Preparation Contractors	238910	2	Revenue	$15,000,000
Sheet Metal Work Manufacturing	332322	2	Employees	500
Special Die and Tool, Die Set, Jig and Fixture Manufacturing	333514	2	Employees	500
Travel Trailer and Camper Manufacturing	336214	2	Employees	1,000
Wholesale Trade Agents and Brokers	425120	2	Employees	100
All Other Miscellaneous Store Retailers (except Tobacco Stores)	453998	2	Revenue	$7,500,000
Museums	712110	2	Revenue	$27,500,000
Hunting and Trapping	114210	1	Revenue	$5,500,000
Water Supply and Irrigation Systems	221310	1	Revenue	$27,500,000
Commercial and Institutional Building Construction	236220	1	Revenue	$36,500,000
Other Heavy and Civil Engineering Construction	237990	1	Revenue	$36,500,000
Plumbing, Heating, and Air-Conditioning Contractors	238220	1	Revenue	$15,000,000
All Other Specialty Trade Contractors	238990	1	Revenue	$15,000,000
Fabric Coating Mills	313320	1	Employees	1,000
Other Millwork (including Flooring)	321918	1	Employees	500
Plastics Material and Resin Manufacturing	325211	1	Employees	1,250
Fertilizer (Mixing Only) Manufacturing	325314	1	Employees	500
All Other Miscellaneous Nonmetallic Mineral Product Manufacturing	327999	1	Employees	500
Alumina Refining and Primary Aluminum Production	331313	1	Employees	1,000
Aluminum Sheet, Plate and Foil Manufacturing	331315	1	Employees	1,250
Other Aluminum Rolling, Drawing, and Extruding	331318	1	Employees	750
Plate Work Manufacturing	332313	1	Employees	750
Farm Machinery and Equipment Manufacturing	333111	1	Employees	1,250
Overhead Traveling Crane, Hoist and Monorail System Manufacturing	333923	1	Employees	1,250
All Other Miscellaneous General Purpose Machinery Manufacturing	333999	1	Employees	500
Other Communications Equipment Manufacturing	334290	1	Employees	750
Truck Trailer Manufacturing	336212	1	Employees	1,000
Motor Vehicle Steering and Suspension Components (except Spring) Manufacturing.	336330	1	Employees	1,000
Ship Building and Repairing	336611	1	Employees	1,250
All Other Transportation Equipment Manufacturing	336999	1	Employees	1,000
Sporting and Athletic Goods Manufacturing	339920	1	Employees	750
Hobby, Toy and Game Stores	451120	1	Revenue	$27,500,000
Scenic and Sightseeing Transportation, Water	487210	1	Revenue	$7,500,000
Navigational Services to Shipping	488330	1	Revenue	$38,500,000
Miscellaneous Intermediation	523910	1	Revenue	$38,500,000
Recreational Goods Rental	532292	1	Revenue	$7,500,000
Landscape Architectural Services	541320	1	Revenue	$7,500,000
Industrial Design Services	541420	1	Revenue	$7,500,000
Graphic Design Services	541430	1	Revenue	$7,500,000

TABLE 7—NAICS CODES OF IDENTIFIED SMALL ENTITIES—Continued

Title	NAICS Code	Count of companies	SBA size standard type	SBA size threshold
Administrative Management and General Management Consulting Services.	541611	1	Revenue	$15,000,000
Other Management Consulting Services	541618	1	Revenue	$15,000,000
All Other Professional, Scientific and Technical Services	541990	1	Revenue	$15,000,000
Landscaping Services	561730	1	Revenue	$7,500,000
All Other Miscellaneous Schools and Instruction	611699	1	Revenue	$11,000,000
Emergency and Other Relief Services	624230	1	Revenue	$32,500,000
Fitness and Recreational Sports Centers	713940	1	Revenue	$7,500,000
RV (Recreational Vehicle) Parks and Campgrounds	721211	1	Revenue	$7,500,000
Civic and Social Organizations	813410	1	Revenue	$7,500,000

Revenue Impacts of the Interim Rule. To determine the impacts of the interim rule on small monohull manufacturers, we used information on revenues or employee size as available on business directory Web sites.[13]

As discussed in the ''Cost to Industry'' section of the RA, we estimate that there are 17,916 outboard boats less than 20 feet produced by manufacturers annually that will require additional flotation materials to align with this interim rule in Year 1. Coast Guard does not have information on the market share of the small entity manufacturers and the number of boats they produce each year. Therefore, we assume each manufacturer consistently produces the same number of boats each year and that each manufacturer has the same market share. With 1,427 affected U.S. companies, this is an average of about 13 outboard boats per manufacturer (rounded). In Years 2 through 10, the Coast Guard estimates there are 19,009 outboard boats affected, at an average of about 13 outboard boats per manufacturer (19,009 boats divided by 1,427 manufacturers, rounded). At an estimated cost of $50 per outboard boat, the average total cost per manufacturer is $650 in Years 1 through 10. Table 8 summarizes the average costs per manufacturer of the interim rule by year.

TABLE 8—INTERIM RULE AVERAGE COSTS PER MANUFACTURER

Year(s)	Affected outboard boats	Manufacturers not in compliance	Average outboard boats produced by manufacturer	Cost per outboard boats	Average cost per manufacturer
1	17,916	1,427	13	$50	$650
2–10	19,009	1,427	13	50	650

Next, we compared the average cost per manufacturer to the revenue of the manufacturers in our sample. As shown in Table 6, we found revenue or company data for 385 small entities. We found revenue information for 371 of these small entities, and we were only able to find employee data for 14 entities. Therefore, we could not compare the cost per manufacturer to the revenues for the 14 entities with only employee data. Table 9 summarizes the results. In Years 1 through 10, 94.6 percent of the affected manufacturers will incur a cost of 1 percent or less of revenue in any given year, while 0.3 percent will incur a cost impact of greater than 10 percent of revenue.

TABLE 9—INTERIM RULE REVENUE IMPACTS

Impact range	Number of affected manufacturers	Percent of affected manufacturers
0% < Impact ≤ 1%	352	94.9
1% < Impact ≤ 3%	17	4.6
3% < Impact ≤ 5%	1	0.3
5% < Impact ≤ 10%	0	0
≥10%	1	0.3
Total	371	100%

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

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

[13] As indicated by either the revenue or employee data for businesses, we use ReferenceUSA (*www.referenceusagov.com*) and Manta (*www.manta.com*).

5. An identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the rule.

There are no relevant Federal rules that may duplicate, overlap, or conflict with this interim rule.

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

This interim rule implements section 308 of CGAA. The CGAA mandates the update of Table 4 in 33 CFR part 183. As such, the Coast Guard has no discretion to offer alternatives that minimize the impact on small entities while accomplishing the stated objective of the statute. To ease implementation of this requirement, the Coast Guard is delaying the effective date until June 1, 2018, so that the new requirements will apply only to boat manufacturers who build boats after that date.

7. Conclusion.

We are interested in the potential impacts from this interim rule on small businesses and we request public comment on these potential impacts. If you think that this interim rule will have a significant economic impact on you, your business, or your organization, please submit a comment to the docket at the address under **ADDRESSES** in the interim rule. In your comment, explain why, how, and to what degree you think this interim rule will have an economic impact on you.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we offered to assist small entities in understanding this rule so that they could better evaluate its effects on them and participate in the rulemaking. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

E. Federalism

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

Congress directed the Coast Guard to ''establish minimum safety standards for recreational vessels'' (46 U.S.C. 4302). This regulation is issued pursuant to that statute and is preemptive of State law as specified in 46 U.S.C. 4306. Under 46 U.S.C. 4306, ''a State or political subdivision of a State may not establish, continue in effect, or enforce a law or regulation establishing a recreational vessel or associated or equipment performance or other safety standard . . . that is not identical to a regulation prescribed under'' 46 U.S.C. 4302. As a result, States or local governments are expressly prohibited from regulating within this category. Therefore, the rule is consistent with the principles of federalism and preemption requirements in Executive Order 13132.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with implications and preemptive effect, Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this rule has implications for federalism under Executive Order 13132, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

F. Unfunded Mandates Reform Act

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

G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under E.O. 12630 (''Governmental Actions and Interference with Constitutionally Protected Property Rights'').

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, (''Civil Justice Reform''), to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under E.O. 13045 (''Protection of Children from Environmental Health Risks and Safety Risks''). This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This 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.

K. Energy Effects

We have analyzed this rule under E.O. 13211 (''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''). We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under E.O. 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise

impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule uses a voluntary consensus standard: the current ABYC S–30.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969, 42 U.S.C. 4321–4370f, and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. An environmental analysis checklist and a categorical exclusion determination supporting this determination are available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. This rule involves the safe loading capacity and required amount of flotation material for certain recreational boats, which concerns equipping of vessels, equipment and vessel operation safety standards. As such, this action is categorically excluded under section 2.B.2 and figure 2–1, paragraph (34)(d) and (e) of the Instruction and under section 6(a) of the ''Appendix to National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions, Notice of Final Agency Policy'' (67 FR 48243, July 23, 2002).

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

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

List of Subjects in 33 CFR Part 183

Marine safety.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 183 as follows:

PART 183—BOATS AND ASSOCIATED EQUIPMENT

■ 1. The authority citation for part 183 is revised to read as follows:

Authority: 46 U.S.C. 4302; Pub. L. 103–206, 107 Stat. 2439; and Department of Homeland Security Delegation No. 0170.1, para. II, (92)(b). Subpart E is also authorized by Pub. L. 114–120, 130 Stat. 27.

§ 183.41 [Amended]

■ 2. Amend § 183.41 as follows:

■ a. In paragraph (a)(1), remove the text ''from table 4 of subpart H of this part'' and add, in its place, the text ''required by § 183.75''; and

■ b. In paragraph (a)(2)(ii), remove the text ''shown in table 4 of subpart H of this part'' and add, in its place, the text ''required by § 183.75''.

■ 3. Add subpart E to read as follows:

Subpart E—Flotation and Safe Loading Requirements–Outboard Motor and Related Equipment Test Weights

§ 183.75 Applicability.

Manufacturers of vessels to which this subpart applies must use test weights that are not less than the recommended weights set forth in Table 183.75. Table 183.75 details the weight (in pounds) of gasoline outboard engines and related equipment for various rated power (horsepower) ranges.

TABLE 183.75—WEIGHTS (IN POUNDS) OF GASOLINE OUTBOARD ENGINES AND RELATED EQUIPMENT FOR VARIOUS RATED POWER (HORSEPOWER) RANGES

Single engine installations								
Column number								
1	2	3	4	5	6	7	8	9
Engine power range (Horsepower)	Dry weight [1 2]	Running weight [3]	Swamped weight [4]	Controls & rigging [5]	Battery weight, dry	Battery weight submerged	Full portable fuel tank [6]	Total weight Sum of columns 3,5,6,8)
0.1–2.0	30	32	27	0	0	0	0	32
2.1–3.9	42	44	37	0	0	0	0	44
4.0–6.9	66	69	59	0	0	0	25	94
7.0–10.9	105	110	94	5	20	11	50	185
11.0–22.9	127	133	113	6	45	25	50	234
23.0–34.9	187	196	167	9	45	25	100	350
35.0–64.9	286	300	255	14	45	25	100	459
65.0–94.9	439	461	392	22	45	25	100	628
95.0–104.9	458	481	409	23	45	25	100	649
105.0–144.9	526	552	469	26	45	25	100	723
145.0–194.9	561	589	501	28	45	25	100	762
195.0–209.9	652	685	582	33	45	25	100	863
210.0–300.0	699	734	624	35	45	25	100	914

TABLE 183.75—WEIGHTS (IN POUNDS) OF GASOLINE OUTBOARD ENGINES AND RELATED EQUIPMENT FOR VARIOUS RATED POWER (HORSEPOWER) RANGES—Continued

Single engine installations								
Column number								
1	2	3	4	5	6	7	8	9
Engine power range (Horsepower)	Dry weight [1 2]	Running weight [3]	Swamped weight [4]	Controls & rigging [5]	Battery weight, dry	Battery weight submerged	Full portable fuel tank [6]	Total weight Sum of columns 3,5,6,8)
300.1–350.0	884	928	789	44	45	25	100	1,117

Notes:

[1] Dry weight is the manufacturer's published weight for the shortest midsection increased by 10 percent to account for longer midsections and additional required hardware usually not included in published weights. This weight is intended to represent the heaviest model in each power category. For boats designed with a transom height of 20 inches or less, the weight in Column 2 may be reduced by 10 percent. Recalculate Columns 3, 4, and 9 as appropriate.

[2] For diesel outboards, replace the value in Column 2 with the manufacturer's published dry weight + 10 percent.

[3] Running weight is the dry weight plus fluids (including 2-stroke oil) and the heaviest recommended propeller. Calculated as 5 percent of dry weight.

[4] Swamped weight is 85 percent of running weight.

[5] Rigging and controls include engine related hardware required to complete the installation (*e.g.,* controls, cables, hydraulic hoses, steering pumps and cylinders). Calculated as 5 percent of dry weight.

[6] If the boat is equipped with a permanent fuel system and is not intended to use a portable tank, the portable fuel tank weight may be omitted.

§ 183.220 [Amended]

■ 4. Amend § 183.220 as follows:

■ a. In paragraph (b)(2), remove the text ''shown in Column 6 of Table 4'' and add, in its place, the text ''shown in Column 9 of Table 183.75''; and

■ b. In paragraph (d), remove the text ''specified in Columns 2 and 4 of Table 4 for the swamped weight of the motor and controls and for the submerged weight or'' and add, in its place, the text ''specified in Columns 4 and 7 of Table 183.75 for the swamped weight of the motor and controls and for the submerged weight of''.

§ 183.320 [Amended]

■ 5. Amend § 183.320 as follows:

■ a. In paragraph (b)(2), remove the text ''shown in column 6 of Table 4'' and add, in its place, the text, ''shown in Column 9 of Table 183.75''; and

■ b. In paragraph (d), remove the text ''specified in Column 2 of Table 4'' and add, in its place, the text ''specified in Column 4 of Table 183.75''.

Table 4 to Subpart H of Part 183 [Removed]

■ 6. Remove Table 4 to Subpart H of Part 183.

Dated: March 29, 2017.

V.B. Gifford,

Captain, U.S. Coast Guard, Director of Inspections and Compliance.

[FR Doc. 2017–06733 Filed 4–4–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 15 and 17

[Docket No. FWS–HQ–ES–2015–0176; 4500030113]

RIN 1018–BB29

Endangered and Threatened Wildlife and Plants; Removal of the Scarlet-Chested Parrot and the Turquoise Parrot From the Federal List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are removing the scarlet-chested parrot *(Neophema splendida)* and the turquoise parrot *(Neophema pulchella)* from the Federal List of Endangered and Threatened Wildlife under the Endangered Species Act of 1973, as amended (Act). Our review of the status of these parrots shows that the threats have been eliminated or reduced and populations of both species are stable, with potential increases noted for the turquoise parrot in some areas. These species are not currently in danger of extinction, and are not likely to again become in danger of extinction within the foreseeable future in all or significant portions of their ranges. After the effective date of this final rule, the scarlet-chested and the turquoise parrots will remain protected under the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). To date, the scarlet-chested and turquoise parrots remain on the Approved List of Captive-bred Species under the Wild Bird Conservation Act of 1992 (WBCA).

DATES: This rule becomes effective May 5, 2017.

ADDRESSES: Comments and materials we received, as well as supporting documentation we used in preparing this rule, are available for public inspection at *http://www.regulations.gov* under Docket No. FWS–HQ–ES–2015–0176. Comments, materials, and documentation that we considered in this rulemaking will be available by appointment during normal business hours at: U.S. Fish and Wildlife Service, MS: ES, 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone, 703–358–2171; facsimile, 703–358–1735. If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service at 800–877–8339.

FOR FURTHER INFORMATION CONTACT: Janine Van Norman, Chief, Branch of Foreign Species, Ecological Services, U.S. Fish and Wildlife Service, MS: ES, 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone, 703–358–2171; facsimile, 703–358–1735. If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

This document contains a final rule to remove the scarlet-chested parrot and the turquoise parrot from the Federal List of Endangered and Threatened Wildlife.

Purpose of the regulatory action—We are delisting the scarlet-chested parrot and the turquoise parrot throughout their ranges due to recovery under the Act. Species experts now widely characterize populations of the scarlet-chested parrot and the turquoise parrot as stable, with potential increases noted for the turquoise parrot in some areas. Trade in wild specimens is strictly regulated under Australia's national laws as well as through CITES, the Lacey Act Amendments of 1981, as amended (16 U.S.C. 3371, *et seq.*), and the WBCA (16 U.S.C. 4901–4916).

Basis for the regulatory action—Under the Act, a species may be determined to be an endangered species or threatened species because of any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We must consider the same factors in delisting a species. We may delist a species if the best scientific and commercial data indicate the species is neither endangered nor threatened for one or more of the following reasons: (1) The species is extinct; (2) the species has recovered and is no longer threatened or endangered; or (3) the original scientific data used at the time the species was classified were in error. We consider both the scarlet-chested and turquoise parrots to be ''recovered'' because threats to these parrots have been reduced or eliminated, and populations of both species are now stable, with potential increases noted for the turquoise parrot in some areas.

Peer review and public comment—We sought comments from independent specialists to ensure that our determination that these species have recovered is based on scientifically sound data, assumptions, and analyses. We invited these peer reviewers to comment on our status reviews for the scarlet-chested parrot and the turquoise parrot. We also considered all comments and information received during the reopening of the comment period (see Previous Federal Actions, below).

Previous Federal Actions

The scarlet-chested and the turquoise parakeets of the genus *Neophema* are listed under the Act, as endangered throughout their entire ranges. The scarlet-chested parakeet was listed on December 2, 1970 (35 FR 18319). The turquoise parakeet was listed on June 2, 1970 (35 FR 8491). Both species were originally listed under the Endangered Species Conservation Act of 1969 (Pub. L. 91–135, 83 Stat. 275 (1969)) as part of a list of species classified as endangered. This list was retained and incorporated into the Act, and both species have remained listed as endangered under the Act since that time. In addition, both species were included by regulation in the Approved List of Captive-bred Bird Species under the WBCA in title 50 of the Code of Federal Regulations at 50 CFR 15.33. The WBCA Approved List includes bird species that are in the appendices of CITES, and which occur in international trade only as captive-bred specimens. (Both species are listed on the WBCA Approved List and in the CITES appendices as ''parrots''; we use the term ''parrots'' in this final rule for reasons set forth below in Summary of Changes from the Proposed Rule.) Captive-bred individuals of species on the WBCA Approved List may be imported or exported without a WBCA permit. For additional information regarding protections under the Act and WBCA, please see *Existing regulatory mechanisms,* below.

On September 22, 2000, we announced a review of all endangered and threatened foreign species in the Order Psittaciformes (parrots, parakeets, macaws, cockatoos, and others; also known as psittacine birds) listed under the Act (65 FR 57363). Section 4(c)(2) of the Act requires such a review at least once every 5 years. The purpose of the review is to ensure that the List of Endangered and Threatened Wildlife (List), found in 50 CFR 17.11, accurately reflects the most current status information for each listed species. We requested comments and the most current scientific or commercial information available on these species, as well as information on other species that may warrant future consideration for listing. If the current classification of a species is not consistent with the best scientific and commercial information available at the conclusion of a review, we may propose changes to the List accordingly. Based on the 2000 review, one commenter suggested that we reevaluate the listing of the scarlet-chested parrot and the turquoise parrot and provided enough scientific information, including information and correspondence with Australian Government officials, to merit our further review of these species.

On September 2, 2003, we published a proposed rule (68 FR 52169) to remove the scarlet-chested and turquoise parakeets from the List under the Act because the endangered designation no longer correctly reflected the current conservation status of these birds. On January 21, 2016, we announced the reopening of the public comment period on our September 2, 2003, proposal to remove the scarlet-chested and turquoise parakeets from the List (81 FR 3373). We took these actions to determine whether removing these species from the List is still warranted, and to ensure that we sought, received, and made our decision based on the best scientific and commercial information available regarding these species and their status and threats.

Background

This is a final rule to remove the scarlet-chested and turquoise parakeets from the Federal List of Endangered and Threatened Wildlife. This final rule contains updated information from the information presented in the proposed rule to remove these species from the Federal List of Endangered and Threatened Wildlife (68 FR 52169, September 2, 2003) and is based on the best scientific and commercial information available regarding these species and their status and threats.

Summary of Changes From the Proposed Rule

This final rule includes information summarized from status reviews we conducted in 2016–2017 for the scarlet-chested and the turquoise parrots. These status reviews are available on the Internet at *http://www.regulations.gov* as supporting documentation for Docket No. FWS–HQ–ES–2015–0176.

Sections from the status reviews were added (in part or entirely) to the preamble to this final rule. These new sections in the preamble are updates or additions to information that was presented in the 2003 proposal to remove the scarlet-chested and turquoise parakeets from the list (68 FR 52169, September 2, 2003). We made changes to Previous Federal Actions, Summary of Status Review, and Significant Portion of Its Range Analysis. More detailed information about both parrots is in our 2016–2017 status reviews.

In earlier rulemaking documents we used the common names ''scarlet-chested parakeet'' and ''turquoise parakeet'' for *Neophema splendida* and *N. pulchella,* respectively. However, both CITES and the WBCA use the common names ''scarlet-chested parrot'' and ''turquoise parrot,'' and these common names are also used widely in the range country of Australia, and in the scientific literature. Therefore, we have adopted the use of the term ''parrot'' instead of ''parakeet'' in the

common name for these species in this final rule and in our 2016–2017 status reviews.

When these two species were included in the Approved List of Captive-bred Bird Species under the WBCA, the Service footnoted the species that require an ESA permit under 50 CFR part 17 for importation or other prohibited acts to avoid any confusion for the public (59 FR 62255, 62261–63; December 2, 1994). With this final rule, these two species will no longer require an ESA permit under 50 CFR part 17. Accordingly, in order to avoid confusion, in this final rule we are also amending 50 CFR 15.33(a) simply to make technical corrections to delete the informational footnote superscripts from the entries for these two species and to reflect that the informational footnote now applies to only one species on the WBCA Approved List. These changes are being made with this final rule because they are noncontroversial actions necessary for clarity and consistency that are in the best interest of the public and should be undertaken in as timely a manner as possible.

Scarlet-Chested Parrot

Summary of Status Review

Taxonomy

Both the scarlet-chested (*Neophema splendida*) parrot and the turquoise parrot (*N. pulchella*) belong to the genus *Neophema,* which contains six species, all native to Australia. Both Birdlife International (BLI 2016 a&b, unpaginated) and the Integrated Taxonomic Information System (ITIS 2016 a&b, unpaginated) recognize the scarlet-chested and turquoise parrots as distinct full species. We have reviewed the available information and conclude that the scarlet-chested and turquoise parrots are valid full species in a multispecies genus.

Species Description

The scarlet-chested parrot is a relatively small, very colorful parrot found in the dry central portions of southern Australia. Adult size is approximately 19–21 centimeters (cm) (7.5–8.3 inches (in)) in length (Higgins 1999, p. 585). The male scarlet-chested parrot is bright green above with yellow below. The face, throat, and cheeks are blue, and flight feathers are also edged in blue (BLA 2016a, unpaginated; Higgins 1999, p. 585). Males are easily distinguished from females by their scarlet chest; the chest of the female is light green (BLA 2016a, unpaginated; Higgins 1999, p. 585). Juvenile birds are similar in appearance to the female (del Hoyo *et al.* 1997, p. 384), but colors are somewhat duller (BLA 2016a, unpaginated; Higgins 1999, p. 585)

Biology

The scarlet-chested parrot inhabits open woodlands or shrublands among sand plains of the dry inland portions of the Australian ''outback'' or ''rangelands.'' Typical vegetation in these shrublands includes *Eucalyptus* species (mallee), *Acacia aneura* (mulga), or *Eucalyptus salubris* (gimlet), usually with sparse spinifex (*Triodia* species; hummock grass) ground cover (Collar 2016a, unpaginated; Forshaw 1989, p. 288; Jarman, 1968, p. 111). The term ''mallee'' can mean both: (1) The various low-growing shrubby *Eucalyptus* species and (2) areas of shrub that are dominated by mallee bushes, typical of some arid parts of Australia. Throughout this document, we use the term ''mallee'' to refer to the former and ''mallee shrubland'' to refer to the latter. Similarly, we use the term *Acacia* shrublands to refer to arid landscapes dominated by *Acacia* species.

The scarlet-chested parrot is adapted to country that is usually waterless, with average annual rainfall less than 25 cm (10 in) (Jarman 1968, p. 111). It is frequently found far from water and is thought to obtain moisture by drinking dew or eating succulent (water-storing) plants (NSW 2014a, unpaginated; Forshaw 1989, p. 288; Jarman 1968, p. 111). The species feeds primarily on grass seeds (Juniper and Parr 1998, p. 367; del Hoyo *et al.* 1997, p. 384) and seeds from *Acacia* species and herbaceous and succulent plants found near or on the ground (BLA 2016a, unpaginated; NSW 2014a, unpaginated; Forshaw 1989, p. 288; Jarman 1968, p. 111). The scarlet-chested parrot appears to favor areas that have been recently burned and are regenerating for forage (Collar 2016a, unpaginated; BLA 2012, unpaginated; del Hoyo *et al.* 1997 p. 384; Robinson *et al.* 1990, p. 11).

The species is described as nomadic—birds will appear in an area, nest for several years, and then disappear again (Collar 2016a, unpaginated; Rowden *pers. comm.* 2016; Higgins 1999, p. 587; Juniper and Parr, 1998, p. 366; Forshaw 1989, p. 288; del Hoyo *et al.* 1997, p. 384). The species is also described as ''irruptive,'' meaning that it is capable of building up large numbers in response to favorable environmental conditions (Andrew and Palliser 1993, as cited in Snyder *et al.* 2000, p. 57; Forshaw 1989, p. 288). However, in general, movements or patterns of abundance for the scarlet-chested parrot are not well understood (BLI 2016a, unpaginated; Higgins 1999, p. 587).

The scarlet-chested parrot is typically seen in isolated pairs or small groups of fewer than 10 birds (Forshaw 1989, p. 288), but larger flocks have been reported outside of the breeding season (NSW 2014a, unpaginated; Higgins 1999, p. 588; Forshaw 1989, p. 288). Age at maturity is about 3 years (Garnett & Crowley 2000a, p. 346), and generation time is estimated at 4.9 years (BLI 2012a, p. 8). The species breeds mostly from August through January, but timing likely depends on rain events and resultant food availability (BLA 2016a, unpaginated; Collar 2016a, unpaginated; Forshaw 1989, p. 288).

Woodland and shrubland tree hollows (*e.g.,* hollows in *Eucalyptus* species) are important for nesting and may be a limiting habitat feature for the scarlet-chested parrot in some areas (see *Competition for nesting hollows and food,* below). The scarlet-chested parrot lays four to six eggs on a bed of wood dust or debris in tree hollows (BLA 2016a, unpaginated; Collar 2016a, unpaginated; Forshaw 1989, p. 288). The female incubates the eggs, but both the male and female rear the young (AFD 2014, unpaginated, Hutchins and Lovell, 1985 as cited in Higgins 1999, p. 589). Incubation lasts for about 18 days, and the nestling period is about 30 days (Forshaw 1989, p. 288). The species is thought to raise just one brood per season (Jarman 1968, p. 118) but may produce two broods under good conditions (Sindel and Gill undated as cited in Higgins 1999, p. 589), consistent with irruptive species population ecology.

Distribution

This species once had a wide distribution (Juniper and Parr 1998, p. 366) within the drier portions of southern Australia from the west coast of Australia to the western portions of New South Wales (Higgins, 1999, pp. 585–586).

Today, the population is sparsely distributed across the arid interior of southern Australia, ranging from approximately Kalgoorlie (Western Australia) to western portions of New South Wales in the east and as far north as southern portions of the Northern Territory (NSW 2014a, unpaginated). The species is primarily concentrated in the better vegetated areas of the Great Victoria Desert located in southwestern Australia (BLI 2016a, unpaginated; Juniper and Parr 1998, p. 366).

The estimated distribution of the scarlet-chested parrot is very large (262,000 km^2 (101,159 mi^2); BLI 2016a, unpaginated). However, there appears to be a reduction in the extent of the historical range in the west within the

vicinity of the Western Australian goldfields, with just one record from the west coast since 1854 (Dymond *in litt.* 2001, as cited in BLI 2016a, unpaginated). Similarly, reductions have been noted in the east with fewer records from New South Wales in the 20th than in the 19th century (BLI 2016a, unpaginated), and no confirmed records from Victoria since 1995 (Clarke *in litt.* 2016).

The scarlet-chested parrot at one point historically was thought to have gone extinct, as a result of no sightings of this species for upwards of 20 to 60 years (Jarman 1968, p. 111; Anon. 1932, p. 538). The current population has not been quantified, but it is estimated to be larger than 10,000 mature individuals (BLI 2012a, p. 1); and population trends appear to be stable, with no evidence of decline in the last 20 years (BLI 2016a, unpaginated; BLI 2012a, p. 4). The population does not appear to be fragmented, and subpopulations can travel great distances (Snyder *et al.* 2000, p. 57).

Captive-Bred Specimens

The scarlet-chested parrot is bred in captivity for the pet trade and may number between 10,000 and 25,000 held in captivity in Australia alone (Collar 2016a, unpaginated; Juniper and Parr 1998, p. 366; del Hoyo et al. 1997, p. 384), although estimates of the size of the captive population after the late 1990s could not be found.

Conservation Status

The scarlet-chested parrot was listed in CITES Appendix I in 1975, but transferred to Appendix II in 1977 (UNEP 2011a, unpaginated). The Order Psittaciformes was listed as a whole in Appendix II in 1981 (UNEP 2011a, unpaginated). Listing in CITES Appendix II allows for regulated international commercial trade based on certain findings.

International Union for Conservation of Nature and Natural Resources (IUCN)—In 1988, the scarlet-chested parrot was listed as ''Threatened'' on the IUCN Red List of Endangered Species (BLI 2012a, p. 1). The species was recategorized as ''Vulnerable'' in 1994, to ''Lower Risk'' in 2000, and to ''Least Concern'' in 2004; the status remains at ''Least Concern'' (BLI 2012a, p. 1).

Australia

Commercial exports of the scarlet-chested parrot from Australia have been prohibited since 1962; these prohibitions are now codified in Australia's Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). The scarlet-chested parrot is not included in the EPBC Act's List of Threatened Fauna (Australian DEE 2017a, unpaginated). Inclusion on EPBC Act's List of Threatened Fauna promotes recovery via: (1) Conservation advice, (2) recovery plans, and (3) the EPBC Act's assessment and approval provisions (Australian DEE 2017b). The scarlet-chested parrot was not included on the List of Threatened Fauna either because it was never nominated for consideration, or if it was nominated, it was found ineligible by a rigorous scientific assessment of the species' threat status (Australian DEE 2017b, unpaginated).

Additionally, the 2000 Action Plan for Australian Birds (Garnett and Crowley 2000a, p. 346) listed the scarlet-chested parrot nationally as ''Least Concern,'' but this designation was removed in the 2010 Action Plan (Garnett *et al.* 2011, entire). As such, there is no national recovery plan for the scarlet-chested parrot, though recommended actions were outlined for the species in the 2000 Action Plan (Garnett and Crowley 2000a, p. 346). There was no justification provided for the removal of the scarlet-chested parrot from the 2010 Action Plan. Justification was provide for removal of the turquoise parrot form the 2010 Action Plan, which noted that the population was too large to be considered ''near threatened'' and that there was no evidence of a recent decline (Garnett *et al.* 2011, p. 429). We assume that similar criteria were considered for the removal of the scarlet-chested parrot from the 2010 Action Plan.

At the state level, the scarlet-chested parrot is listed as ''Near threatened'' in the Northern Territory (NT GOV 2016, unpaginated), and ''Rare'' in South Australia (South Australia 2016, unpaginated). It does not appear on the list of threatened fauna in Western Australia (WAG 2015, unpaginated). Although sightings are rare in New South Wales, the State has listed the scarlet-chested parrot as ''Vulnerable'' and has identified management actions for its conservation (NSW 2014a, unpaginated). The species is currently listed as ''Threatened'' in Victoria under the Flora and Fauna Guarantee Act 1988 (FFG Act 2016, p. 3; Vic DSE 2013, p. 12), although there have been no confirmed records there since 1995 (Clarke *in litt.* 2016).

Additionally, portions of suitable habitat for the scarlet-chested parrot are protected. For example, nearly 30 percent of the state of South Australia is now in the Natural Reserve System, which includes government reserves, indigenous protected areas, private protected areas, and jointly managed protected areas (CAPAD 2014, unpaginated). Reserve lands in South Australia include portions of the Great Victoria Desert, a primary concentration area for the scarlet-chested parrot. Also, nearly 22 percent of Western Australia, 19 percent of the Northern Territory, 9 percent of New South Wales, and 18 percent of Victoria are part of the Natural Reserve System (CAPAD 2014, unpaginated). Because we do not reliably know the degree to which the Natural Reserve System protects the scarlet-chested parrot and its habitat, we did not rely on these protected areas in our determination of whether or not the parrot meets the definition of threatened or endangered.

Factors Affecting the Scarlet-Chested Parrot

The following paragraphs provide a summary of the past, current, and potential future stressors for the scarlet-chested parrot and its habitats. In cases where the stressors were common to both the scarlet-chested and turquoise parrots, we discuss potential effects to both parrot species for efficiency.

Land Clearing in Australia

In this section, we consider the term ''land clearing'' to mean the removal of Australian native vegetation for agriculture, development, or other purposes (COAG 2012, p. 2). Thus, we consider clearing of the native habitats occupied by both the scarlet-chested and turquoise parrots as ''land clearing,'' including clearing of forests, woodlands, scrub- or shrublands, and grasslands. When Europeans began colonizing Australia in the late 18th century, approximately 30 percent of the continent was covered in forest (Barson *et al.* 2000 as cited in Bradshaw 2012, p. 110). Since colonization, Australia has lost nearly 40 percent of its forests, and much of the remaining vegetation is highly fragmented (Bradshaw 2012, p. 109). In the late 18th and the early 19th centuries, deforestation occurred mainly on the most fertile soils closest to the coast (Bradshaw 2012, p. 109). Land clearing continues in more recent timeframes—with Australia having the sixth highest annual rate of land clearing in the world from 1990 to 2000 (Lindenmayer and Burgman 2005, p. 230).

Although land clearing is listed as a ''key threatening process'' under the EPBC Act (Australian DEE 2016a, unpaginated), the Commonwealth has no jurisdiction over state actions (Lindenmayer and Burgman 2005, p. 233). Throughout this document, the term ''key threatening process'' means a ''threatening process that threatens or

may threaten the survival, abundance or evolutionary development of a native species or ecological community'' (EPBC Act; Australian DEE 2016b, unpaginated).

Land Clearing and the Scarlet-Chested Parrot

Europeans settled Australia's semi-arid or arid landscapes (*i.e.,* areas used by the scarlet-chested parrot) 150 years ago (Benson *et al.* 2001, p. 26). Determining impacts to the scarlet-chested parrot from land clearing is not straightforward, partly because the area known to be available to the parrot is large (BLI 2012, p. 1), and the parrot is capable of traveling great distances (Snyder *et al.* 2000, p. 57). Habitat clearing has caused major losses of the mallee shrublands used by the scarlet-chested parrot in some areas, such as in southern South Australia and northwestern Victoria, but large fragments remain (CAPAD 2014, unpaginated; Garnett and Crowley 2000a, p. 346). Overgrazing by exotic herbivores (*i.e.,* cattle, sheep, and rabbits) and resultant vegetation modification is also attributed to the decline of many arid-zone birds (Reid and Fleming, 1992, pp. 65, 80), though trends for the scarlet-chested parrot are less discernible due, in part, to their use of remote desert regions (Garnett 1992 as cited in Reid and Fleming, 1992, p. 74). Clearance and harvesting of mallee shrublands and *Acacia* shrublands affects nest hollow availability (NSW 2014a, unpaginated; Joseph 1988, p. 273), although the extent of the impacts to the scarlet-chested parrot is unknown.

Fire in Australia

Fire is an essential component of Australia's natural environment. The indigenous people of Australia learned to live in a fire-prone environment and used fire as a primary land management tool (Whelan *et al.* 2006, p. 1). When early Europeans arrived, they feared and fought bushfires (wildfires) but used managed fires to clear native vegetation for agriculture (Whelan *et al.* 2006, p. 1). Today, land managers use fire for biodiversity conservation, to promote pasture production, and for the protection of life, property, and other assets (*e.g.,* to manage fuel loads and prevent wildfire) (Whelan *et al.* 2006, p. 1). Fire is also an important process in the formation of tree hollows used for nesting species, such as the scarlet-chested parrot. Australia lacks primary tree excavator species, such as woodpeckers, so hollows are generally started by fire or limb loss, and hollow formation continues over long time periods via invertebrates, fungi, or bacteria (Haslem *et al.* 2012, p. 213).

Altered Fire Regimes and the Scarlet-Chested Parrot

Frequency, extent, and intensity of wildfires appear to be increasing across most of the scarlet-chested parrot's range (see *Climate change in Australia,* below). The role these increases play in the ecology of the scarlet-chested parrot is difficult to discern. The scarlet-chested parrot uses and prefers recently burned and regenerating areas for forage (Collar 2016a, unpaginated; BLA 2012, unpaginated; del Hoyo *et al.,* 1997 p. 384; Robinson *et al.* 1990, p. 11). However, altered fire regimes (*e.g.,* more frequent fire intervals) have probably been detrimental in some areas (BLI 2016a, unpaginated; Collar 2016a, unpaginated; NSW 2014a, unpaginated; Garnett and Crowley 2000a, p. 346). Woodland birds of the mallee shrublands, occupied by the scarlet-chested parrot in a large portion of its range, are sensitive to altered fire regimes (Clarke *in litt.* 2016). Time-since-fire (and resultant older vegetation stages) are important variables for species richness (Taylor *et al.* 2012, entire) and occupancy (Clarke *in litt.* 2016, Brown *et al.* 2009, entire; Clarke *et al.* 2005, pp. 174, 178, 179) in mallee shrublands.

Long fire-free periods are important in the formation of tree hollows (Haslem *et al.* 2012, entire), which the parrots depend upon for breeding. Mid- to late-successional stages of vegetation (greater than 20 years) are important to many bird species in semi-arid shrublands in southeastern Australia (Watson *et al.* 2012, p. 685). More frequent fire intervals can prevent these stages from occurring.

In summary, although habitat loss and degradation has occurred in the arid and semi-arid habitat occupied by the scarlet-chested parrot over the last 150 years, the degree to which land clearing for agriculture, overgrazing by introduced herbivores and altered fire regimes have acted on, are presently acting on, or will act on the scarlet-chested parrot in the foreseeable future, is difficult to assess. Mallee shrublands in southern South Australia and northwestern Victoria have been lost, but large fragments remain (CAPAD 2014, unpaginated; Garnett and Crowley 2000a, p. 346). Availability of nest hollows in the dwindling mallee shrublands is a concern over the long term (Joseph 1988, p. 273). Although habitat destruction and modification is a likely stressor for the scarlet-chested parrot, we do not consider it to be a major stressor to the species throughout its entire range now or in the foreseeable future because the scarlet-chested parrot has evolved in dynamic environmental conditions, the area available to the parrot is large, and the parrot is capable of traveling great distances.

Illegal Collection and Trade (for Both Scarlet-Chested and Turquoise Parrots)

Trapping or nest robbing of scarlet-chested and turquoise parrots for the caged bird industry may have been a significant stressor in the past (NSW 2014a&b, unpaginated; Higgins 1999, pp. 587 & 576), but current rates of trapping are unknown. It may no longer be much of a stressor because these species are readily captive-bred and kept in large numbers (Garnett 1992 as cited in Snyder *et al.* 2000, p. 57). However, if illegal trapping is still occurring, it could be significant in some areas if only a small number of birds are present (NSW 2014a, unpaginated). For example, the scarlet-chested parrot was the subject of illegal bird trappers at Gluepot Reserve in eastern South Australia in the 1970s, where there may be a small resident population (MacKenzie *in litt.* 2016). Additionally, practices used in illegal trapping can destroy nest hollows (NSW 2014b, unpaginated; Baker-Gabb 2011, p. 10). Both the scarlet-chested and turquoise parrots are still thought to be illegally trapped at some level (NSW 2014a&b, unpaginated), but trapping is no longer thought to be a major stressor (Garnett 1992 as cited in Snyder *et al.* 2000, p. 57; Joseph 1988, p. 274).

Legislation by the states within these species' range prohibits, or limits by permit, the capture of these species from the wild (See *Existing regulatory mechanisms,* below). Legitimate state permit holders (such as zoos, breeders, or pet shops) must prove that they are qualified to care for the animals and keep detailed records in a logbook (Barry 2011, unpaginated). However, the limited permissions for removal of wildlife and associated recordkeeping are, at times, abused. A practice called ''leaving the book open'' is a common way to launder wildlife—where permit holders sometimes head to the bush to replace a permitted animal that died, or pass off a wild animal as captive-bred (Barry 2011, unpaginated). Although there are thousands of state wildlife permit infringements and seizures each year in Australia, only a small number go to court (*e.g.,* as few as 12 cases per year), and punishments across the states vary (Barry 2011, unpaginated). Under Australian Federal law, maximum fines for wildlife permit violations are $110,000 AUS ($83,194 US) and 10 years in prison, but across the states,

penalties range from $220,000 AUS ($158,824 US) and 2 years jail in New South Wales to $10,000 AUS ($7,563 US) and no jail time in Western Australia (Barry 2011, unpaginated).

International trade in wild-caught specimens is strictly limited by domestic regulation (in Australia) and through additional national and international treaties and laws (See *Existing regulatory mechanisms,* below). However, the fact that so many species of native Australian birds have appeared overseas during the years of prohibition is evidence that some smuggling has been successful (Parliament of Australia 2016, unpaginated).

Despite domestic and international protections for wild birds, captive-bred scarlet-chested and turquoise parrots are widely available, and their market value is relatively low compared to other species of parrots, especially for birds sold in Australia. Scarlet-chested parrots sold in Australia are valued at approximately $20 to $50 AUS ($15 to $38 US) (*Findads.com* 2016, unpaginated). Prices for scarlet-chested parrots in the United States are approximately five times higher, or more—approximately $99 to $165 AUS ($75 to $125 US) (Hoobly Classifieds 2016, unpaginated). Market value for turquoise parrots is lower—approximately $15 AUS ($11 US) for birds sold in Australia and $50 AUS ($38 US) for birds sold overseas (Parliament of Australia 2016, unpaginated).

Levels of Legal International Trade (for the Scarlet-Chested Parrot)

Between 1980 and 2014, there were very few wild scarlet-chested parrots in trade. There were 22,612 recorded exports of the species in international trade (19,337 recorded as imports). Of these, only 32 specimens were recorded as exports from Australia (7 recorded as imported). With few exceptions, specimens in trade were captive-bred for the pet trade. Within this same time period there were 295 recorded imports (and 168 recorded exports) to the United States. Of those imports, 23 specimens were confiscated by the U.S. Fish and Wildlife Service (UNEP 2016a).

In summary, poaching for the pet trade may be occurring at a low level that is not likely to affect wild populations. Small, possibly resident, subpopulations may face some risk from poaching, but we are not aware of any significant poaching since the 1970s. Nor are we aware of any information indicating that overutilization for recreational, scientific, or educational purposes is a stressor to the scarlet-chested parrot.

Disease (for Scarlet-Chested and Turquoise Parrots)

Information regarding diseases and their potential effect to wild scarlet-chested and turquoise parrots is limited. Psittacine beak and feather disease (PBFD) is a viral disease that occurs in a fatal form and a chronic form in both old and new world parrots (Fogell *et al.* 2016, pp. 2059 and 2060). In 2001, PBFD was listed as a ''key threatening process affecting endangered psittacine species'' (Peters *et al.* 2014, p. 289; Australian DEH 2004, unpaginated). Cases of PBFD are pervasive in Australia, having been reported in more than 61 psittacine species (Australian DEH 2004, unpaginated).

The virus particularly affects juveniles or young adults, but all ages are susceptible (Australian DEH 2004, unpaginated). The chronic form of PBFD results in feather, beak, and skin abnormalities, with most birds eventually dying (Australian DEH 2004, unpaginated). Symptoms of the acute form of PBFD include feather abnormalities and diarrhea, with death likely within 1 to 2 weeks (Australian DEH 2004, unpaginated). PBFD is readily transmitted through contact with contaminated feces, feather dust, crop secretions, surfaces, or objects (Gerlach 1994 as cited in Ritchie *et al.* 2003, p.109) and can also be passed directly from a female to her young (Fogell *et al.* 2016, p. 2060).

PBFD can probably survive for many years in tree hollows and other nest sites (Australian DEH 2004, unpaginated). To date, the disease has not been reported for the scarlet-chested or turquoise parrots (Fogell *et al.* 2016, pp. 2063–2065), but recent phylogenetic analyses of the virus indicate that all endangered Australian psittacine birds are susceptible to, and equally likely to be infected by, the disease (Raidal *et al.* 2015, p. 466). PBFD may be less of a danger to larger, non-threatened populations of Australian psittacine species because they are generally better able to sustain losses to the disease, and individuals that survive infection develop immunity (Australian DEH 2004, unpaginated). Because PBFD is so pervasive in Australia, scarlet-chested and turquoise parrots are likely susceptible, but population sizes (*i.e.,* approximately 10,000 scarlet-chested and 20,000 turquoise parrots) may provide some resiliency from the disease.

Predation From Non-Native Cats and Foxes in Australia

Nonnative cats (*Felis catus*) were introduced and became established soon after European settlement and are now found throughout mainland Australia (Australian DEE 2015, p. 7). Predation by feral cats was identified as a key threatening process in 1999 (Australian DEE 2015, p. 5). In response, a feral cat threat abatement plan was developed by the Australian Government in 2008, and the most recent plan was published in 2015. It establishes a national framework for cat control, research, management, and other actions needed to ensure the long-term survival of native species and ecological communities affected by feral cats (Australian DEE 2015, p. 5).

The non-native European red fox (*Vulpes vulpes*) was introduced in the mid-1800s and now occupies much of mainland Australia (Australian DSEWP&C 2010, unpaginated), including the range of the scarlet-chested and turquoise parrots. Predation by the European red fox is listed by the Australian Government as a key threatening process in 1999 (Australian DEE 2015, p. 5). In response, the Australian Government developed a threat abatement plan that outlines conventional control techniques such as shooting, poisoning, and fencing as well as research and management actions (Australian DSEWP&C 2010, unpaginated). To date, it is not known if these efforts are resulting in a reduction in these predators.

Predation and the Scarlet-Chested Parrot

Predation by feral cats and European red foxes could be a stressor for the scarlet-chested parrot, but the degree of predation is not known. Both the scarlet-chested and turquoise parrot were assessed as ''high risk'' from these predators within the rangeland environment in the Western Division of New South Wales based on variables such as predator density, body weight, habitat use, and behavior (Dickman et al. 1996, p. 249). The Western Division of New South Wales represents the eastern edge of the current distribution of the scarlet-chested parrot. Additionally, the night parrot (*Pezoporus occidentalis*), which shares some habitat (*Triodia* grass) with the scarlet-chested parrot, may have experienced a decline partly due to nonnative predators such as foxes and cats (Joseph 1988, p. 274). Lastly, the provisioning of water for livestock has made some areas that were, perhaps, once too dry for these predators more hospitable. However, we did not find any information indicating that predation by foxes and cats is affecting the scarlet-chested parrot.

Competition for Nesting Hollows and Food

Competition for suitable nest hollows has the potential to limit reproductive success by limiting the number of pairs that can breed, or by causing nest mortality as a result of competitive interactions. All but four species of Australian parrots are dependent on tree hollows for nesting (Forshaw 1990, p. 58), and at least 14 species of parrots are known to use mallee shrublands (Schodde, 1990, p. 61). Availability of nest hollows in the dwindling mallee shrublands is a concern over the long term (Joseph 1988, p. 273). Additionally, the provisioning of water for livestock in semi-arid and arid rangelands may have caused increases and competitive advantage (*e.g.,* for food and nest hollows) to more water-dependent parrots (Collar 2016a, unpaginated; Garnett and Crowley 2000a, p. 346; del Hoyo *et al.,* 1997, p. 384). National legislation, policy, and strategic management plans are in place to protect hollow-bearing trees in Australia; however, prioritization and implementation of actions at the local level may be limited or lacking (Treby *et al.* 2014, entire).

In summary, disease, predation, and competition are all potential stressors for the scarlet-chested parrot. Although PBFD has not been confirmed in the scarlet-chested parrot, it is likely susceptible to the disease at some level. We are not aware of other diseases or pathogens that affect the wild population. Predation and competition may be occurring at low levels. Disease, predation, and competition do not appear to be significant stressors to the species because populations of the scarlet-chested parrot appear to be stable with an estimated 10,000 individuals and no evidence of decline in the past 20 years.

Existing Regulatory Mechanisms (for Both Scarlet-Chested and Turquoise Parrots)

In Australia, legislation from all states within these species' range prohibits, or limits by permit, the capture of the scarlet-chested and turquoise parrots from the wild. Commercial exports of these species from Australia have been banned since 1962. The prohibition is now codified under the EPBC Act. Individuals who violate this act, for example to export native species for commercial reasons, can face serious penalties, such as lengthy imprisonment and hefty fines.

These species are listed in Appendix II of CITES (50 CFR 23.91). CITES, an international agreement between governments, ensures that the international trade of CITES-listed plants and animals does not threaten the survival of the species in the wild. Under this treaty, CITES Parties regulate the import, export, and reexport of specimens, parts, and products of CITES-listed plants and animals (CITES 2016, unpaginated). Trade must be authorized through a system of permits and certificates that are provided by the designated CITES Scientific and Management Authorities of each CITES Party (CITES 2016, unpaginated). The United States implements CITES through the Act and our implementing regulations at 50 CFR part 23. It is unlawful for any person subject to the jurisdiction of the United States to engage in any trade in any specimens contrary to the provisions of CITES, or to possess any specimens traded contrary to the provisions of CITES, the Act, or part 23. Protections for CITES-listed species are provided independently of whether a species is a threatened species or endangered species under the Act.

In the United States, the scarlet-chested and turquoise parrots are currently listed as endangered and protected by the Act. Conservation measures provided to species listed as endangered or threatened under the Act include recognition, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and encourages and results in conservation actions by Federal and State governments, private agencies and interest groups, and individuals.

Section 7(a) of the Act, as amended, and as implemented by regulations at 50 CFR part 402, requires Federal agencies to evaluate their actions that are to be conducted within the United States or upon the high seas, with respect to any species that is proposed to be listed or is listed as endangered or threatened. Specifically, section 7(a)(2) requires Federal agencies to ensure those actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. However, because foreign species are not native to the United States, critical habitat is not designated. Regulations implementing the interagency cooperation provision of the Act are codified at 50 CFR part 402.

Section 8(a) of the Act authorizes the provision of limited financial assistance for the development and management of programs that the Secretary of the Interior determines to be necessary or useful for the conservation of endangered or threatened species in foreign countries. Sections 8(b) and 8(c) of the Act authorize the Secretary to encourage conservation programs for foreign listed species, and to provide assistance for such programs, in the form of personnel and the training of personnel.

Section 9(a)(1) of the Act and our implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, at 50 CFR 17.21, in part, make it illegal for any person subject to the jurisdiction of the United States to ''take'' (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or to attempt any of these) within the United States or upon the high seas; import or export; deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, in the course of commercial activity; or sell or offer for sale in interstate or foreign commerce any endangered wildlife species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken in violation of the Act. Certain exceptions apply to agents of the Service and State conservation agencies.

Under section 10 of the Act, permits may be issued to carry out otherwise prohibited activities involving endangered species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22 for endangered species. With regard to endangered wildlife, a permit may be issued for the following purposes: for scientific purposes, to enhance the propagation or survival of the species and for incidental take in connection with otherwise lawful activities.

Two other laws in the United States apart from the Act provide protection from the illegal import of wild-caught birds into the United States: the Wild Bird Conservation Act (WBCA) and the Lacey Act. The WBCA was passed in 1992 to ensure that exotic bird species are not harmed by international trade and to encourage wild bird conservation programs in countries of origin. Under the WBCA and our implementing regulations (50 CFR 15.11), it is unlawful to import into the United States any exotic bird species listed under CITES except under certain circumstances. The U.S. Fish and Wildlife Service may issue permits to allow import of listed birds for scientific research, zoological breeding or display, cooperative breeding, or personal pet purposes when the applicant meets certain criteria (50 CFR 15.22–15.25). All *Neophema* are protected under the WBCA (USFWS 2004). The WBCA allows import into the United States of captive-bred birds of certain species

included in the WBCA Approved List (50 CFR 15.33), such as scarlet-chested and turquoise parrots, which meet the following criteria (50 CFR 15.31):

(a) All specimens of the species known to be in trade (legal or illegal) must be captive bred;

(b) No specimens of the species may be removed from the wild for commercial purposes;

(c) Any importation of the species must not be detrimental to the survival of the species in the wild; and

(d) Adequate enforcement controls must be in place to ensure compliance with paragraphs (a) through (c).

The Lacey Act was originally passed in 1900 and was the first Federal law protecting wildlife. Today, it provides civil and criminal penalties for the illegal trade of animals and plants. Under the Lacey Act, in part, it is unlawful to import, export, transport, sell, receive, acquire, or purchase any fish, or wildlife taken, possessed, transported, or sold: (1) In violation of any law, treaty, or regulation of the United States or in violation of any Indian tribal law, or (2) in interstate or foreign commerce any fish or wildlife taken, possessed, transported, or sold in violation of any law or regulation of any State or in violation of any foreign law. Therefore, for example, because the take of wild-caught Australian parrots would be in violation of Australia's EPBC Act, the subsequent import of such parrots would be in violation of the Lacey Act. Similarly, under the Lacey Act it is unlawful to import, export, transport, sell, receive, acquire, or purchase specimens of these species traded contrary to CITES.

In this section, we reviewed the existing regulatory mechanisms governing collection and trade of wild scarlet-chested parrots. While we note the conservation measures that would no longer be in place under the Act as a result of a delisting, such as the prohibitions on take within the United States or on the high seas, and import, export, or re-export into or out of the United States, we did not rely on the conservation measures provided by a listing under the Act in reaching our determination of whether or not the species meets the definition of threatened or endangered. As described above, the EPBC Act (which controls commercial export), Lacey Act, CITES, and WBCA all provide protection to scarlet-chested parrots that minimize or eliminate threats from trade to the species independently of the listing of the species under the Act. Thus, we do not expect declines in the species due to the removal of the protections of the Act. As discussed under the other sections in Factors Affecting the Scarlet-Chested Parrot, we do not find major stressors adversely affecting the species or its habitat. Thus, it is reasonable to conclude that the regulatory mechanisms addressing these potential stressors are adequate at protecting the species at a domestic and global level.

Small Population Size

We discussed the nomadic behavior and the irruptive species population ecology of the scarlet-chested parrot in the *Biology* section above and noted that the species can experience range contractions and low numbers (Runge *et al.* 2014, pp. 870, 874). Although the current population has not been quantified, it is estimated to be larger than 10,000 mature individuals (BLI 2012a, p. 1); and population trends appear to be stable, with no evidence of decline in the last 20 years (BLI 2016a, unpaginated; BLI 2012a, p. 4). Because the scarlet-chested parrot can experience large range contractions and low numbers, we considered whether small population size in combination with other stressors might act as a stressor to the species. Small populations are generally at greater risk of extinction from habitat loss, predation, disease, loss of genetic diversity, and stochastic (random) environmental events such as wildfire and floods.

Species that naturally occur in low densities, however, are not necessarily in danger of extinction merely by virtue of their rarity. Many naturally rare species have persisted for long periods, and many naturally rare species exhibit traits (*e.g.,* nomadic behavior and irruptive species population ecology of the scarlet-chested parrot) that allow them to persist despite their small population sizes. Consequently, the fact that a species is rare or has small populations alone does not indicate that it may be in danger of extinction now or in the foreseeable future. Additional information beyond rarity is needed to determine whether the species may warrant listing. In the absence of information identifying stressors to the species and linking those stressors to the rarity of the species or a declining status, we do not consider rarity alone to be a threat. Further, a species that has always had small population sizes or has always been rare, yet continues to survive, could be well-equipped to continue to exist into the future.

We considered specific potential stressors that may affect or exacerbate rarity or small population size for the scarlet-chested parrot. Although low genetic diversity could occur with some small populations, the scarlet-chested parrot population is not known to be fragmented (Snyder *et al.* 2000, p. 57). We are not aware of any genetic studies on the scarlet-chested parrot and have no evidence that low genetic diversity is a problem for the species. Additionally, the scarlet-chested parrot is capable of building up large numbers in response to favorable environmental conditions, and has historically survived changes to its habitat, including wildfire and other stochastic events.

In summary, the best available information does not indicate that lack of genetic variability and reduced fitness is acting on the scarlet-chested parrot now or will do so in the future.

Global Climate Change

Described in general terms, ''climate'' refers to the mean and variability of different types of weather conditions over a long period of time, which may be reported as decades, centuries, or thousands of years. The term ''climate change'' thus refers to a change in the mean or variability of one or more measures of climate (*e.g.,* temperature, precipitation) that persists for an extended period, typically decades or longer, whether the change is due to natural variability, human activity, or both (Intergovernmental Panel on Climate Change; (IPCC 2007, p. 78). Various types of changes in climate can have direct or indirect effects on species, and these may be positive or negative depending on the species and other relevant considerations, such as the effects of interactions with non-climate conditions (*e.g.,* habitat fragmentation). We use our expert judgment to weigh information, including uncertainty, in our consideration of various aspects of climate change that are relevant to the scarlet-chested and turquoise parrots. Global climate change predictions include increases in intensity and/or duration of heat waves and droughts, as well as greater numbers of heavy precipitation events (IPCC 2013, p. 7).

Climate Change in Australia

Over the last century, Australia has experienced an average increase of 1.0 °C (1.8 °F), with the most pronounced and rapid warming occurring in eastern Australia from the 1950s to the present (Nicholls 2006 as cited in Bradshaw 2012, p. 116). Along with this warming, there has been an increased frequency of hot days and nights, and a decrease in cold days and nights (Deo 2011 as cited in Bradshaw 2012, p. 116). Rainfall patterns have shifted over this period, with decreased rainfall in the southeastern and southwestern regions and increases in the northwest (Nicholls

and Lavery 1992 as cited in Bradshaw 2012, p. 116). An increase in annual total rainfall of approximately 15 percent was experienced in New South Wales, Victoria, South Australia, and the Northern Territory, with little change in the other states (Hughes 2003, p. 424). In eastern Australia, since 1973, drought periods are becoming hotter (Nicholls 2004 as cited in Bradshaw 2012, p. 116).

Climate change projections for Australia show significant vulnerability to changes in temperature and rainfall. The IPCC Fourth Assessment Report identified agriculture and natural resources as two key sectors likely to be strongly affected (Stokes *et al.* 2008, p. 41). Temperatures in Australia are projected to increase by 1–5 °C (1.8–9 °F), depending on location and the emissions scenarios. The most warming is projected for the dry interior of the continent, particularly for the northwest (Stokes *et al.* 2008, p. 41). Accompanying these temperature increases will be an increase in the frequency of hot days and warm nights (Stokes *et al.* 2008, p. 41).

Rainfall projections for Australia are less reliable with some dryer and wetter trends predicted within a large range of uncertainty (Stokes *et al.* 2008, p. 41). Projections focusing on median rainfall show a general pattern of drying across the continent, with the strongest drying trends in the southwest and the weakest in the east (Stokes *et al.* 2008, p. 41). Seasonal rainfall is expected to be reduced in winter and spring in the south. Rainfall intensity is expected to increase in most of the country, particularly in the north (Stokes *et al.* 2008, p. 41). Frequency in the incidence of drought is also expected to increase—with up to 40 percent more droughts predicted for eastern Australia and 80 percent more droughts in the southwest by 2070 (Stokes *et al.* 2008, p. 41).

Climate Change and the Scarlet-Chested Parrot

Based on the information for Australia above, climate patterns over the last century within the known range of the scarlet-chested parrot included: (1) Increased average temperature of 1.0 °C (1.8 °F) (Nicholls 2006 as cited in Bradshaw 2012, p. 116); (2) increased frequency of hot days and warm nights (Deo 2011 as cited in Bradshaw 2012, p. 116); (3) decreased rainfall in the southeastern and southwestern regions (Nicholls and Lavery 1992 as cited in Bradshaw 2012, p. 116); and (4) increased annual total rainfall of approximately 15 percent in South Australia, New South Wales, the Northern Territory and Victoria (Hughes 2003, p. 424). Similarly, a summary of climate projections for areas within the known range of the scarlet-chested parrot includes: (1) Temperature increase of 1–5 °C (1.8–9 °F) with most warming in the dry interior (Stokes *et al.* 2008, p. 41); (2) increases in the frequency of hot days and warm nights (Stokes *et al.* 2008, p. 41); (3) a large range of uncertainty for rainfall, but (using median rainfall) a general pattern of drying, with less rain in the spring and winter in the south, and increased intensity of rain, particularly in the north (Stokes *et al.* 2008, p. 41); and (4) increased frequency and intensity of drought (up to 40 percent in eastern areas and 80 percent in the southwest by 2070) (Stokes *et al.* 2008, p. 41).

Habitats used by the scarlet-chested parrot will respond differently to projected warmer and drier conditions and the variable rain predictions. Habitats such as woodland areas used by the scarlet-chested parrot that do not receive adequate rain to produce needed fuels may actually see a decrease in fire frequency (Bradstock 2010, p. 145). However, fire frequency is likely to increase in areas with ample fuel and connectivity, such as hummock grasses interspersed with shrubs including mallee shrubland (Garnett *et al.* 2013a, p. 16).

Although there is still some variability in climate change predictions for Australia, the increased warming and frequency and/or intensity of droughts are of concern for the scarlet-chested parrot and its habitats; however, the information at this time is too speculative for us to draw conclusions as to the scale and timing of any effects. Two recent studies analyzed the capacity of woodland birds in dry woodlands and riparian areas in southeastern Australia to resist the pressures of extended drought and then recover once drought conditions abated (Selwood *et al.* 2015, entire; Bennet *et al.* 2014, entire). Overall, these studies indicated long-term decline in the face of more frequent and extended droughts in southeastern Australia (Selwood *et al.* 2015, entire; Bennet *et al.* 2014, entire).

A recent climate-change-adaptation model using a ''Business as Usual'' projection (*i.e.,* the ''worst-case'' scenario with increasing greenhouse gasses through time), predicted that the distribution of climate, similar to that currently used by the species, may contract to approximately one third of its current range by 2085, shifting suitable habitat to more southerly portions of Western Australia and South Australia (Garnett *et al.* 2013b, interactive model results). Although the model does well to incorporate species-specific traits, it also includes a number of uncertainties that may limit its predictive power (Garnett *et al.* 2013, pp. 76–77). Basic model assumptions such as that trends into the future will follow simple linear extrapolations of existing relationships, and assumptions regarding (scaled down) projected climate change itself, may limit its accuracy (Garnett *et al.* 2013, pp. 76–77). Given the variability in the existing climate and uncertainties in modelling, it can be concluded that climate change does not pose a substantial threat to the species in the next 50 years based on current knowledge (Garnett *in litt.* 2016a).

The scarlet-chested parrot has evolved in a landscape where environmental conditions are dynamic, and its nomadic strategies may help it to recover from periods of range contraction and low numbers (Runge *et al.* 2014, pp. 870, 874), but too rapid an environmental change (*e.g.,* from climate change effects) may outpace the species' abilities to respond to spatial and temporal shifts (Runge *et al.* 2014, pp. 870, 874).

In summary, effects from past and predicted climate change are difficult to assess for the scarlet-chested parrot. Because it is adapted to dry habitat, the parrot would likely fare better than more water-dependent birds in times of drought. However, within areas of increased rainfall, vegetation shifts may occur, fuel loads and wildfire risk may be altered, and competition with water-dependent species may increase. Although long-term range contraction was indicated in the climate-change-adaptation model (Garnett *et al.* 2013b, interactive model results), there are uncertainties in the model and variability in the climate data on which it relies. Due to species' adaptability to arid landscapes and ability to travel great distances, climate change is not likely to be a major stressor for the scarlet-chested parrot, within the next 50 years.

Turquoise Parrot

Summary of Status Review

Taxonomy—Please see *Taxonomy* section above, which includes taxonomy for both the scarlet-chested and turquoise parrots.

Species Description

The turquoise parrot is a relatively small, colorful parrot found in eastern and southeastern Australia. Adult size is approximately 20–22 cm (7.9–8.7 in) in length (Higgins 1999, p. 573). Adult coloration is primarily bright green

above with bright yellow below, with a bright blue face and shoulder patch. Males are distinguished from females by a small red shoulder band or patch and more blue on the face; the red shoulder patch and blue facial coloration of juvenile males is less extensive than that of adult males (BLA 2016b, unpaginated; NSW 2014b & 2009, unpaginated; Higgins 1999, p. 573; Quin and Baker-Gabb 1993, p. 3; Jarman 1973, p. 240).

Biology

The turquoise parrot occurs in many parts of eastern and southeastern Australia, particularly the foothills of the Great Dividing Range (NSW 2009, unpaginated; Garnett and Crowley 2000b, p. 345; Juniper and Parr 1988, p. 365). Typical habitat is hill country including woodlands, open forest, and timbered grasslands (Collar 2016b, unpaginated; Forshaw 1989, p. 286). Within this habitat, the parrot prefers the transition zones between open and closed areas, such as the edges of woodland adjoining grasslands and tree-lined creeks (Collar 2016, unpaginated; Forshaw 1989, p. 286).

The turquoise parrot tends to feed on or near the ground (BLA 2016b, unpaginated; Higgins 1999b, p. 574; Quin and Reid 1996, p. 250), usually under the cover of trees (NSW 2014b, unpaginated; Higgins 1999b, p. 574). The species also feeds in farmland, mainly pasture with remnant trees (Higgins 1999, p. 574). The turquoise parrot must have access to drinking water (Jarman 1973, p. 239), and its habitat usually receives more than 38 cm (15 in) of annual rainfall (Jarman 1973, p. 240). The species feeds on a generalized diet of seeds from grasses, herbaceous plants, and shrubs; it also feeds on flowers, nectar, fruit, leaves, and scale-insects (NSW 2009, unpaginated; Quin and Baker-Gabb 1993, p. 15). Turquoise parrots can exploit disturbed environments and use a variety of colonizing plants as food sources (Quin and Baker-Gabb 1993, p. 27). The turquoise parrot eats from both native and non-native plants, and researchers credit its ability to partially adapt to modified habitats as contributing to its recovery (Quin 1990 as cited in Quin and Reid 1996, p. 253).

Type and quality of the pasture land used for food is important. Although the species can use partially modified habitats, use of highly modified habitats, such as ''highly improved'' pasture, is less likely. Improved pastures, in general, are sown with a proportion of non-native plant species to promote productive growth of both the pasture and grazing animals. Introduced non-native pasture species are usually grasses, in combination with legumes. In a study of the species near Chiltern, a town bordering the hill country in northeast Victoria, almost all habitat types in forest and unimproved pasture were potentially useful for feeding in at least one season. However, use of highly improved pasture and cropped land was rare (Quin and Baker-Gabb 1993, p. 15).

The turquoise parrot is usually seen in pairs, in small groups, or, in flocks of up to 30 birds (NSW 2014b, unpaginated; Higgins 1999, p. 574; Quin and Baker-Gabb 1993, p. 16). Rarer sightings of larger flocks of 100 to 200 birds have also been reported (Higgins 1999, p. 574; Quin and Baker-Gabb 1993, p. 16).The species is described as mainly sedentary or resident with some post-breeding movement from woodland to pastures (Juniper and Parr 1998, p. 366), and some sporadic local movement, likely related to rainfall (del Hoyo *et al.* 1997, p. 383). The turquoise parrot disperses mostly less than 10 kilometers (km) (6.2 miles (mi)), using the protection of treed corridors for dispersal (NSW 2009, unpaginated). The turquoise parrot reaches maturity at about 3 years of age (Garnett and Crowley 2000b, p. 345).

The species breeds in pairs primarily from August to January with some nesting noted in February, and even from April to May (Collar 2016b, unpaginated; Quin *in litt.* 2016; Juniper and Parr 1988, p. 366; del Hoyo *et al.* 1997, p. 383). Four to five eggs, and less commonly, six or seven eggs, are laid in hollows of trees, stumps, fallen logs, or even fence posts (Collar 2016b, unpaginated; Quin *in litt.* 2016; Garnett and Crowley 2000b, p. 345; del Hoyo *et al.* 1997, p. 383; Quin and Baker-Gabb 1993, p. 9; Forshaw 1989, p. 286; Juniper and Parr 1988, p. 366; Jarman, 1973, p. 241), often within approximately 1–2 meters (m) (3–6 feet (ft)) of the ground (NSW 2009, unpaginated; Quin and Baker-Gabb 1993, p. 9). The female incubates the eggs and is fed by the male during incubation; both parents rear the chicks (BLA 2016b, unpaginated). In some areas, the species will have two clutches per year (BLA 2016b, unpaginated; NSW 2009, unpaginated; Juniper and Parr 1998, p. 366). Incubation lasts about 18–20 days, followed by a nestling period of about 30 days (NSW 2009, unpaginated; Juniper and Parr 1998, p. 366; del Hoyo *et al.* 1997, p. 383). After fledging, juveniles remain dependent on their parents for at least 1 week, and continue to be fed by the male while the female begins a second clutch (NSW 2009, unpaginated). Breeding productivity is estimated at 2.8 young per successful nest (NSW 2009, unpaginated).

Distribution

A little more than a century ago, the turquoise parrot was common through many parts of eastern Australia, ranging from eastern Queensland to south-central Victoria (Higgins 1999, p. 575; Jarman 1973, p. 239), though it is unknown whether the historical range was continuous (Jarman 1973, p. 240). Between 1880 and 1920, the species went through a major population crash with associated contractions in its range (Quin and Reid 1966, p. 250; see below).

Although the turquoise parrot is still not found in central Queensland, it is now distributed through much of its former range, from southeastern Queensland through eastern New South Wales and into Victoria (west to Bendigo, Victoria) (del Hoyo *et al.* 1997, p. 383; Juniper and Parr 1989, pp. 365–366). The species' distribution is not continuous but rather occurs in patches of suitable habitat throughout this broader range (Tzaros 2016, unpaginated; Forshaw 1989, p. 286). Based on distribution and density information (Barret *et al.* 2003 as cited in NSW 2009, unpaginated), about 90 percent of the population is thought to occur in New South Wales (NSW 2009, unpaginated).

The reasons for the turquoise parrot population crash between 1880 and 1920 are not fully understood. Likely contributing factors included: (1) Habitat loss from European settlement, including competition for food (grasses) from grazing livestock and rabbits, (2) an intense period of drought from 1895 to 1902, and (3) trapping for the pet trade (Tzaros 2016, unpaginated; del Hoyo 1997, p. 383; Juniper and Parr 1989, p. 365). Some have also suggested that disease may have played a role because of the steep decline in numbers (Collar 2016b, unpaginated, Tzaros 2016, unpaginated; Quin and Baker-Gabb 1993, p. 3; Morse and Sullivan 1930, p. 289), but there is no evidence that disease was a factor. Other potential factors were predation by the non-native European red fox (*Vulpes vulpes*) and feral cats (*Felis catus*) and indiscriminate shooting (Tzaros 2016, unpaginated).

The return of the turquoise parrot to portions of its former range was reported by the 1930s and 1940s (BLA 2016b, unpaginated; Higgins 1999, p. 575), though it did not reappear in Victoria until the 1950s (Tzaros 2016, unpaginated). By the time we listed the species as endangered under the Act in 1970, recovery was continuing and the

parrot was generally considered rare (Smith 1978 and IUCN 1966 & 1981 as cited in Quin and Baker-Gabb 1993, p. 3). Further recovery during the 1970s and 1980s was, in part, attributed to the removal of livestock from reserve lands in northeastern Victoria (Quin and Baker-Gabb 1993, p. 3). Increases in both numbers and range were apparent in Victoria by the mid to late 1980s, though the species was still regarded as rare (Traill 1988, p. 267). The global population of turquoise parrots is currently estimated at 20,000 individuals (BLI 2012b, p. 1; Garnet and Crowley 2000b, p. 345; Juniper and Parr, p. 366) and appears to be stable with increases reported in some areas (BLI 2016b, unpaginated; Garnett & Crowley 2000b, p. 345).

Captive-Bred Specimens

The turquoise parrot is bred in captivity for the pet trade with about 8,000 held in captivity in Australia (Juniper and Parr 1998, p. 366); estimates of the size of the captive population after the late 1990s could not be found.

Conservation Status

The turquoise parrot was listed in CITES Appendix III in 1976, as part of a listing for the Family Psittacidae, and was later listed in Appendix II in 1981, along with all Psittaciformes (UNEP 2011b, unpaginated; see *Conservation status* for the scarlet-chested parrot above for more information on implications of listing in CITES Appendix II).

International Union for Conservation of Nature and Natural Resources (IUCN)—The turquoise parrot was listed on the International Union for Conservation of Nature and Natural Resources (IUCN) Red List of Threatened and Endangered Species in 1988 as ''Lower Risk'' and transferred to ''Least Concern'' in 2004; the status remains at ''Least Concern'' (BLI 2012b, p. 1).

Australia

Commercial exports of the turquoise parrot from Australia have been prohibited since 1962; these prohibitions are now codified in Australia's EPBC Act. The turquoise parrot is not included in the EPBC Act's List of Threatened Fauna (Australian DEE 2017a, unpaginated). Inclusion on the EPBC Act's List of Threatened Fauna promotes recovery via: (1) Conservation advice, (2) recovery plans, and (3) the EPBC Act's assessment and approval provisions (Australian DEE 2017b). The turquoise parrot was not included on the List of Threatened Fauna either because it was never nominated for consideration, or if it was nominated, it was found ineligible by a rigorous scientific assessment of the species' threat status (Australian DEE 2017b, unpaginated).

Additionally, the 2000 Action Plan for Australian Birds (Garnett and Crowley 2000b, p. 345) listed it nationally as ''Near Threatened,'' but this designation was removed in the 2010 Action Plan for Australian Birds, which noted that the population was too large to be considered ''near threatened'' and that there was no evidence of a recent decline (Garnett *et al.* 2011, p. 429). As such, there is no national recovery plan for the turquoise parrot, though recommended actions were outlined for the species in the 2000 Action Plan (Garnett and Crowley 2000b, p. 345).

At the state level, the species is currently listed as ''Rare'' in Queensland under the Nature Conservation Act 1992 and ''Threatened'' in Victoria under the Flora and Fauna Guarantee Act 1988 (FFG; FFG 2016, p. 3). It was subsequently recommended for downlisting to ''Near Threatened'' by an FFG Scientific Advisory Committee in 2013; however, it is still officially ''Threatened'' in Victoria (Vic DSE 2013, p. 13; NSW 2009, unpaginated). In 2009, the New South Wales Scientific Committee determined that the turquoise parrot met criteria for listing as ''Vulnerable'' under the New South Wales Threatened Species Conservation Act 1995 (NSW 2009, unpaginated), and this classification is still in place (BLA 2016b, unpaginated).

Additionally, portions of suitable habitat for the turquoise parrot are protected. For example, about 8 percent of Queensland is now in the Natural Reserve System that includes government reserves, indigenous protected areas, private protected areas, and jointly managed protected areas (CAPAD 2014, unpaginated). Approximately 9 percent of New South Wales and 18 percent of Victoria are also part of this Natural Reserve System (CAPAD 2014, unpaginated). Because we do not reliably know the degree to which the Natural Reserve System protects the turquoise parrot and its habitat, we did not rely on these protected areas in our determination of whether or not the parrot meets the definition of threatened or endangered.

Factors Affecting the Turquoise Parrot

The following sections provide a summary of the past, current, and potential future stressors for the turquoise parrot and its habitats. In cases where the stressors were common to both the scarlet-chested and turquoise parrots, we discuss potential effects to both parrot species in the section for the scarlet-chested parrot for the sake of efficiency.

Land clearing—See *Land clearing in Australia* under Factors Affecting the Scarlet-Chested Parrot, above.

Land Clearing and the Turquoise Parrot

Typical turquoise parrot habitat is hill country including woodlands, open forest, and timbered grasslands (Collar 2016b, unpaginated; Forshaw 1989, p. 286). Since the 1970s, southeastern Queensland and northern New South Wales have experienced the greatest rates of deforestation in Australia, and Victoria is now the most deforested state or territory in Australia (Bradshaw 2012, p. 109).

Unlike New South Wales and Victoria, most of the land clearing in Queensland has occurred in the last 50 years (Bradshaw 2012, p. 113; McAlpine *et al.* 2009, p. 22) with high rates of vegetation loss in the last several decades (Lindenmayer and Burgman 2005, p. 233). Clearing was predominantly in central and southern regions where native forests and woodlands were converted for intensive cropping and improved pastures for cattle (McAlpine *et al.* 2009, p. 23). In 2004, Queensland enacted clearance restrictions to phase out broad-scale clearing by the end of 2006 (Lindenmayer and Burgman 2005, p. 233). As of 2014, about 8.16 percent of Queensland's jurisdiction was in protected areas (CAPAD 2014, unpaginated).

Victoria is heavily cleared (Lindenmayer 2007, as cited in Bradshaw 2012, p. 114), having lost an estimated 66 percent of its native vegetation (Victoria Department of Sustainability and the Environment 2011 as cited in Bradshaw 2012, pp. 113–114). Most of the clearance occurred prior to the 1890s when the wheat and livestock industries were developing (Lindenmayer 2007, as cited in Bradshaw 2012, p. 114). Land clearance was estimated to have continued at a slow, steady rate of about 1 percent per year until 1987, when anti-clearing legislation was introduced (Lindenmayer 2007, as cited in Bradshaw 2012, p. 114). Despite this legislation, proportional clearance rates from 1995–2005 remained high and even increased near the end of this decade (Bradshaw 2012, p. 114). Although Victoria is now the most cleared of the three states, it also contains the highest proportion of protected land. As of 2014, about 17.63 percent of Victoria's jurisdiction was in

protected areas (CAPAD 2014, unpaginated).

New South Wales was one of the first regions settled by Europeans and generally has a higher human population than other parts of Australia. Most of the land clearing and damage to forest ecosystems happened during the nineteenth century (Bradshaw 2012, p. 112). More than 50 percent of the forest and woodland in New South Wales has been cleared (Lunney 2004, Olsen *et al.* 2005 and Johnson *et al.* 2007 as cited in NSW 2009, unpaginated). As of 2014, about 9.10 percent of New South Wales' jurisdiction was in protected areas (CAPAD 2014, unpaginated).

Forest fragmentation as a result of land clearing can also affect the turquoise parrot, which is mostly sedentary but capable of short-distance dispersal (generally less than 10 km (6.2 mi)) along treed corridors) (NSW 2009, unpaginated; Quin and Baker-Gabb 1993, p. 16). Therefore, gaps between forest remnants may cause fragmentation of turquoise parrot populations in heavily cleared landscapes (NSW 2009, unpaginated).

Altered fire regimes—see *Fire in Australia* under Factors Affecting the Scarlet-Chested Parrot, above.

Altered Fire Regimes and the Turquoise Parrot

Prescribed fire and timber-cutting have negatively affected the turquoise parrot and its habitat (NSW 2009, unpaginated). Both practices have the potential to cause the loss of hollow-bearing trees, which can be a limiting habitat feature for the turquoise parrot (NSW 2014b). Similarly, firewood collection and selective removal of dead wood and dead trees reduce the availability of nest hollows (NSW 2014b, unpaginated; NSW 2009, unpaginated).

In summary, land clearing for agriculture in combination with other stressors (*i.e.,* drought, trapping) was likely a significant cause of the population crash between 1880 and 1920. While most of the land clearing occurred in the late 18th and the early 19th centuries, more recent forest clearance rates are of concern for the three states that support the turquoise parrot. Forest fragmentation as a result of clearing has the potential to isolate turquoise parrot populations, which are mostly sedentary but capable of short-distance dispersal (and population expansion) along treed corridors. Management actions such as prescribed fire, selective logging, and reforestation should be carefully applied and adapted to benefit parrot habitat. Managing for protection of nesting hollows is particularly important.

The advent of anti-clearing legislation since approximately the 1990s (Bradshaw 2012, p. 116) and the growing proportion of lands in protected areas are positive signs for further turquoise parrot recovery, but researchers caution that conservation efforts such as reforestation should be carefully planned and implemented at the local level. The turquoise parrot population has continued to recover since the historic crash and through periods of subsequent deforestation, with no evidence of recent decline (Garnett *et al.* 2011, p. 429). While habitat destruction and modification is a likely stressor for the turquoise parrot, we do not consider it to be a major stressor to the species throughout its entire range now or in the foreseeable future.

Removal From the Wild for Food

About a century ago, turquoise parrots were shot for food for pie-filling (BLA 2016b, unpaginated; Seth-Smith 1909 as cited in Higgins 1999, p. 576) and, in some cases, were indiscriminately shot (Tzaros 2016, unpaginated). These are no longer reported as stressors for the turquoise parrot.

Illegal collection and trade—see *Illegal collection and trade (for both scarlet-chested and turquoise parrots)* under Factors Affecting the Scarlet-Chested Parrot, above.

Levels of Legal International Trade (for the Turquoise Parrot)

Between 1980 and 2014, there were very few wild turquoise parrots in trade. There were 44,244 turquoise parrot specimens exported in international trade (27,248 recorded imports). More than 99 percent of these were captive-bred live parrots (UNEP 2016b).

In summary, use as food and poaching for the pet trade were noted as stressors in the past. Presently, poaching may be occurring at a low level that is not likely to affect wild populations. We are not aware of any information indicating that overutilization for recreational, scientific, or educational purposes are current stressors to the turquoise parrot.

Disease—See *Disease (for scarlet-chested and turquoise parrots)* under Factors Affecting the Scarlet-Chested Parrot, above.

Predation—See *Predation from non-native cats and foxes in Australia* under Factors Affecting the Scarlet-Chested Parrot, above.

Predation and the Turquoise Parrot

The turquoise parrot nests in tree hollows close to the ground, making it vulnerable to predation from introduced terrestrial predators such as feral cats and European red foxes (Rowden *pers. comm.* 2016; NSW 2014b and 2009, unpaginated; Quin and Baker-Gabb 1993, pp. 3, 26). Feral cat control and feral predator control are identified objectives in management plans for the turquoise parrot (NSW 2014b, unpaginated; Garnett and Crowley 2000b, p. 345; Quin and Baker-Gabb 1993, p. 26). Both feral cats and foxes were predators of the turquoise parrot at Chiltern in Victoria in the 1980s (Quin and Baker-Gabb 1993, p. 26), and more fox control was likely needed in the area at that time (Quin *in litt.* 2016). Additionally, the turquoise parrot and the scarlet-chested parrot were assessed as ''high risk'' from these predators within the rangeland environment in the Western Division of New South Wales based on variables such as predator density, body weight, habitat use, and behavior (Dickman *et al.* 1996, p. 249). However, we could not find recent information regarding the predation rate of feral cats or foxes on the turquoise parrot.

Foxes dig at active turquoise parrot nests and usually take the female and the nestlings, if they can be reached. Some predation of turquoise parrots by foxes can be mitigated by physically reinforcing degraded natural nest hollows to avoid digging out of these nests by foxes (Quin and Baker-Gabb 1993, p. 22). Similarly, placement of artificial nesting material higher in the host tree can generally keep them out of reach of foxes (Quin and Baker-Gabb 1993, p. 22). There are ongoing efforts to improve turquoise parrot nesting habitat, particularly in Victoria (see *Competition for nesting hollows,* below).

Competition for Nesting Hollows

Competition for suitable nest hollows has the potential to limit reproductive success of the turquoise parrot by limiting the number of pairs that can breed, or by causing nest mortality as a result of competitive interactions. All but four species of Australian parrots are dependent on tree hollows for nesting (Forshaw 1990, p. 58). Competition for nest hollows (both intraspecific and interspecific) was noted at Chiltern in Victoria, where limited nest hollows likely limited reproductive success of the turquoise parrot (Quin and Baker-Gabb 1993, p. 12). National legislation, policy, and strategic management plans are in place to protect hollow-bearing trees in Australia; however, prioritization and implementation of actions at the local level may be limited or lacking (Treby *et al.* 2014, entire).

Placing artificial nest hollows in areas that appear to be nest-hollow limited seems to be successful, and programs that construct and strategically place artificial nests are supported at the State level and appear to be ongoing. For example, early experimental efforts to hollow-out naturally occurring stumps in the Warby Ranges (in Victoria, near Chiltern) were successful but ended in the 1990s (Tzaros 2016, unpaginated). In 2010, Monash University researchers placed artificial nests around the Warby-Ovens State Park (also near Chiltern), and the hollows were readily occupied by turquoise parrots (Tzaros 2016, unpaginated). More recent efforts to improve habitat for turquoise parrots include those of two land-care networks in northeastern Victoria. The Broken Boosey Conservation Management Network has made and installed 200 potential nest sites for the species (Tzaros 2016, unpaginated), and the Ovens Land-care Network received a $4,600 AUS ($3,525 US) grant that aims to raise awareness of the increasing risk to hollow-dependent species by the non-native Indian (common) myna bird (*Acridotheres tristis*) (Quin *in litt.* 2016; Tzaros 2016, unpaginated).

Competition for Food

Grazing by livestock can directly affect available food resources for the turquoise parrot (NSW 2009, unpaginated). As livestock grazing ended in some protected areas of Victoria, numbers of turquoise parrots in those areas increased (Quin and Baker-Gabb 1993, p. 7; Juniper and Parr 1989, p. 366; Forshaw 1989, p. 286), indicating that a reduction in grazing may benefit the species' recovery.

Competition for food by grazing sheep, cattle, and European wild rabbits (*Oryctolagus cuniculus*) was noted as a possible contributing factor in the crash of the turquoise parrot population between 1880 and 1920 (Collar 2016b, unpaginated, Quin and Baker-Gabb 1993, p. 3). Around the time of the parrot's population crash, rabbit numbers swelled to plague proportions, forcing some farmers out of business (Tzaros 2016, unpaginated). Turquoise parrot habitat and food sources were undoubtedly adversely affected by this plague, but the degree to which they were affected is unknown. Application of Myxomatosis, a disease that is spread by mosquitoes and affects only rabbits, has succeeded in keeping rabbit numbers at approximately 5 percent their former high abundance in wetter areas (Australian DSEWP&C 2011, unpaginated). Current rates of competition between rabbits and turquoise parrots for food are not well understood but are assumed to be much less than they were a century ago.

In summary, disease, predation, and competition are all potential stressors for the turquoise parrot. Although PBFD has not been confirmed in the turquoise parrot, it is likely susceptible to the disease at some level. We are not aware of other diseases or pathogens that affect the wild population. Predation and competition may be occurring at low levels, but there are active plans in place to control feral cats, foxes, and rabbits. Use of artificial nests may be helping to mitigate fox predation and competition for nest hollows where this is a limiting habitat feature. While disease, predation, and competition may be affecting the turquoise parrot at low levels, they do not appear to be significant stressors to the species because populations of the turquoise parrot are stable with an estimated 20,000 individuals and may be increasing in some areas.

Existing regulatory mechanisms—see *Existing regulatory mechanisms (for both scarlet-chested and turquoise parrots)* under Factors Affecting the Scarlet-Chested Parrot, above.

In this section, we reviewed the existing regulatory mechanisms governing collection and trade of wild turquoise parrots. As described above, the EPBC Act (which controls commercial export), the Lacey Act, CITES, and the WBCA all provide protection to turquoies parrots that minimize or eliminate threats from trade to the species. As discussed under the other sections in Factors Affecting the Turquoise Parrot, we do not find major stressors adversely affecting the species or its habitat. Thus, it is reasonable to conclude that the regulating mechanisms addressing these potential stressors are adequate at protecting the species at a domestic and global level.

Climate change—see *Global climate change* and *Climate change in Australia* under Factors Affecting the Scarlet-Chested Parrot, above.

Climate Change and the Turquoise Parrot

Based on the information presented in *Climate change in Australia* above, a summary of climate patterns over the last century, within the known range of the turquoise parrot includes: (1) Increased average temperature of 1.0 °C (1.8 °F) with pronounced and rapid warming in eastern Australia since the 1950s (Nicholls 2006 as cited in Bradshaw 2012, p. 116); (2) increased frequency of hot days and warm nights (Deo 2011 as cited in Bradshaw 2012, p. 116); (3) decreased rainfall in the southeastern regions (Nicholls and Lavery 1992 as cited in Bradshaw 2012, p. 116); and (4) increased annual total rainfall of approximately 15 percent in New South Wales and Victoria (Hughes 2003, p. 424). Similarly, a summary of climate projections for areas within the known range of the turquoise parrot includes: (1) Temperature increase of 1–5 °C (1.8–9 °F) (Stokes *et al.* 2008, p. 41); (2) increases in the frequency of hot days and warm nights (Stokes *et al.* 2008, p. 41); (3) a large range of uncertainty for rainfall, but (using median rainfall) a general pattern of drying, with less rain in the spring and winter in the south, and increased intensity of rain (Stokes *et al.* 2008, p. 41); and (4) increased frequency and intensity of drought (up to 40 percent in eastern areas by 2070) (Stokes *et al.* 2008, p. 41).

Climate change is projected to affect pasture habitat used by the turquoise parrot. Rainfall is expected to be the dominant influence on pasture growth; fewer, more intense rain events are anticipated as well as (from year to year) more frequent droughts (Stokes *et al.* 2008, p. 41). Increased temperatures could benefit pasture growth and growing seasons in the cooler southern climates, but depletion of moisture in the soil due to this growth might adversely affect spring pasture growth (Stokes *et al.* 2008, p. 41).

Increases in carbon dioxide (CO_2) will affect rangeland function, with a projected increase in pasture production but potential loss in forage quality (*e.g.,* declines in forage protein content) (Stokes *et al.* 2008, p. 42). Fire danger will increase over much of Australia (Hughes 2003, p. 427). Increased pasture growth will produce heavier fuel loads (Stokes *et al.* 2008, p. 42; Hughes 2003, p. 427). The risk of wildfires could increase and make prescribed burns more difficult to manage (Stokes *et al.* 2008, p. 42).

Projections for more droughts could also negatively affect the turquoise parrot. A recent study analyzed the capacity of woodland bird species in north-central Victoria to resist the pressures of extended drought (*i.e.,* the 13-year ''Millennium drought'' or the ''Big Dry'') and then recover once drought conditions abated (*i.e.,* the 2-year ''Big Wet'') (Bennet *et al.* 2014, entire). Results indicated a substantial decline (42–62 percent) in the reporting rates of bird species between the early and late surveys in the Big Dry (Bennet *et al.* 2014, pp. 1321, 1326).

Additionally, a recent climate-change-adaptation model using a ''Business as Usual'' projection (*i.e.,* the ''worst-case'' scenario with increasing greenhouse gasses through time), predicted that the

distribution of climate, similar to that currently used by the species, may contract by approximately one half to the southern part of its current range (*i.e.,* dropping out of Queensland but remaining in portions of New South Wales and Victoria) by 2085 (Garnett *et al.* 2013c, interactive model results). Although the model does well to incorporate species-specific traits, it also includes a number of uncertainties that may limit its predictive power (Garnett *et al.* 2013, pp. 76–77). Basic model assumptions such as that trends into the future will follow simple linear extrapolations of existing relationships, and assumptions regarding (scaled down) projected climate change itself, may limit its accuracy (Garnett *et al.* 2013, pp. 76–77). Although there is much uncertainty in these trends (given the variability in the existing climate and uncertainties in modeling), effects from climate change may rise to the level of a stressor in the next 50 years based on our current knowledge (Garnett *in litt.* 2016b).

Potential responses and adaptability of the parrot to the projected effects from climate change are difficult to predict. Since the parrot is mainly resident, it is not known if it would relocate if local conditions degrade (*e.g.,* drought); however, one group of turquoise parrots did move into an area of central Victoria during the mid-1990s, probably in response to drought conditions elsewhere at this time (del Hoyo, p. 383; Quin and Reid 1996, p. 250).

In summary, other than the projected increases in temperature and CO_2 levels, there is a relatively high level of uncertainty associated with other projected climate change variables (particularly patterns of rainfall) for Australia and across the occupied range of the turquoise parrot. These uncertainties are a component of the climate-change-adaptation model for the turquoise parrot. Climate distribution modeling and a study of declines in woodland birds over a recent and extended drought period indicate that effects from climate change have the potential to become a stressor for parrots in the next 50 years (Bennet *et al.* 2014, pp. 1321, 1326; Garnett *et al.* 2013c, interactive model results). However, we found no information indicating that climate change is currently affecting the turquoise parrot specifically, coupled with the fact that it has shown some adaptability to drought conditions in the past. Stress to the species from climate change will likely occur within the next 50 years, but climate change variables in the area occupied by the parrot and the parrot's response to these variables are currently mostly speculative, and we cannot conclude that climate change is significant enough to result in the species being in danger of extinction in the foreseeable future.

Summary of Comments and Recommendations

We reviewed all comments we received from the public and peer reviewers for substantive issues and new information. All substantive information was incorporated into the status reviews for each species and into this final rule, as appropriate. The following section summarizes issues and information we consider to be substantive from peer review and public comments, and provides our responses.

Peer Reviewer Comments

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from knowledgeable individuals with scientific expertise that included familiarity with the scarlet-chested parrot and the turquoise parrot and their habitats, biological needs, and threats. In all, we contacted eight individuals seeking peer review for the scarlet-chested parrot and five individuals for the turquoise parrot. We found that there were a limited number of individuals who had worked with these parrot species because: (1) They are not listed species in Australia and thus have not been the subject of many dedicated studies, and (2) scarlet-chested parrots are often difficult to find and study due to their nomadic behavior and irruptive species population ecology.

We received responses from three peer reviewers for the scarlet-chested parrot and two peer reviewers for the turquoise parrot. We reviewed all the peer reviewers' comments for substantive issues and information regarding the status of and threats to these species. The peer reviewers generally concurred with our summaries and conclusions regarding these species and provided additional information, clarifications, and suggestions. We incorporated all peer reviewer information into the status reviews for each species, and the majority of the information provided in the peer review is also incorporated into this final rule, where appropriate. Status reviews and peer reviewer comments for the scarlet-chested and turquoise parrot are available on the Internet at *http://www.regulations.gov* as supporting documentation for Docket No. FWS–HQ–ES–2015–0176.

Comment: Two peer reviewers commented on our evaluation of the effects of altered fire regimes on the scarlet-chested parrot. They relayed that there is new information that altered fire regimes affect mallee shrublands used by the species and shared relevant literature.

Our Response: Based on these peer reviewers' comments and the information provided, we updated the *Altered fire regimes* sections in the scarlet-chested parrot status review and this final rule.

Comment: One peer reviewer noted that the scarlet-chested parrots observed at Gluepot Reserve may not actually be a resident population. Additionally, the same reviewer commented that, while the overlap of Bourke's parrot with the scarlet-chested parrot is considerable, the scarlet-chested parrot tends to be found at greater distances than the Bourke's parrot from the pastoral (better-watered) country.

Our Response: We changed the text in the scarlet-chested parrot status review to reflect: (1) Uncertainty regarding whether or not the scarlet-chested parrots at Gluepot are resident; and (2) that the scarlet-chested parrot tends to be found at greater distances than the Bourke's parrot from the better-watered, pastoral areas.

Comment: One peer reviewer noted that the climate change section in our status review for the scarlet-chested parrot contained outdated information and shared relevant literature. The same peer reviewer referred us to two publications that examine the capacity of woodland birds (in dry woodlands and riparian areas in southeastern Australia) to resist the pressures of drought and then recover once drought conditions are lifted. He suggested that these publications indicate a trend for long-term decline in the face of more frequent and extended droughts in southern Australia as predicted by recent climate modelling. A second peer reviewer referred us to a recent publication and interactive model that allowed us to project potential future reductions in ''climate space'' for both the scarlet-chested parrot and the turquoise parrot.

Our Response: We reviewed the information provided and updated our evaluation of climate change as a stressor to the scarlet-chested parrot and its habitat. Further, in our review of the new material, we found that one of the publications was also helpful in assessing extended drought as a potential stressor to the turquoise parrot. Therefore, we updated the *Climate Change* sections for both the scarlet-chested and turquoise parrots in both status reviews and this final rule.

Comment: One peer reviewer noted that the percentages of protected lands

for the scarlet-chested parrot were outdated and did not reflect the large proportion that is Aboriginal-held land.

Our Response: We found updated information for proportions of protected land in the states and territories within the range of both the scarlet-chested and turquoise parrots and reflected these updates in our estimates in both status reviews and this final rule.

Comment: One peer reviewer commented on distribution of the turquoise parrot, relaying that: (1) There are parts of the historical range in Victoria where the species has not returned, and (2) a small population of the species occurs at Bunyip State Park in West Gippsland, Victoria.

The same peer reviewer provided the following observations regarding the population of turquoise parrots near Chiltern in northeastern Victoria: (1) The numbers of turquoise parrots currently in this area appear significantly fewer than the numbers that were there during the late 1980s to the early 1990s; (2) the decrease in numbers is likely due to a decrease in grass abundance either from the Millennium drought or an increase in herbivore abundance, or both; and (3) more fox control was likely needed in this area in the late 1980s.

Lastly, this peer reviewer provided information on two ongoing land-care networks that are working to improve turquoise parrot habitat in northeastern Victoria and commented that more intensive surveys are needed to determine population size of the turquoise parrot in all the regions of Victoria where the turquoise parrot is found.

Our Response: We added information about turquoise parrots in Victoria to the turquoise parrot status review and this final rule, where appropriate: (1) The decreases at Chiltern and likely causes; (2) the small population at Bunyip State Park; (3) the land-care networks; and (4) the recommendation for more extensive surveys.

Public Comments

We published a proposed rule to remove the scarlet-chested and turquoise parakeets from the List on September 2, 2003 (68 FR 52169), and we requested that all interested parties submit written comments at that time. Additionally, because considerable time had passed since the 2003 proposal, we published a reopening of the public comment period in January 2016, which closed on February 22, 2016 (81 FR 3373, January 21, 2016). We took this action to ensure that we sought, received, and made our decision based on the best scientific and commercial information available on these species and their status and threats, in order to determine whether removing these species from the List is warranted. Comments summarized below are from our reopening of the public comment period in January 2016 (81 FR 3373).

We received 18 public comments relating to the proposed delisting of scarlet-chested and turquoise parakeets during the public comment period. More detailed information about the comments we received and our responses are below.

Comment: Several commenters noted that the Act placed restrictions on trade in captive-bred individuals that have limited imports into the United States and, by extension, the genetic diversity of U.S. captive-bred populations.

Our Response: Although we considered captive individuals in our review of both the scarlet-chested and turquoise parrots, these comments fall outside the scope of our analysis. Removal of the scarlet-chested and turquoise parakeets from the List will eliminate the need for an import permit under the Act. Trade in captive-bred scarlet-chested and turquoise parrots will still be regulated under CITES, and, to date, import of captive-bred scarlet-chested and turquoise parrots into the United States is currently allowed under the WBCA Approved List (50 CFR 15.33) without requiring a permit.

Comment: Several commenters stated that more information is needed on the status of populations, or that conservation measures were needed for these species before they can be removed from the List.

Our Response: We have reviewed the status of and threats to both parrots, and the best available scientific and commercial information indicates that populations of the scarlet-chested parrot presently appear to be stable, with no evidence of decline in the last 20 years, and populations of the turquoise parrot are stable and may be increasing in some areas. Populations of both parrots are doing well despite the stressors noted in the Factors Affecting the Scarlet-chested Parrot and Factors Affecting the Turquoise Parrot sections, above. Although the scarlet-chested and turquoise parrots are not included in the EPBC Act's List of Threatened Fauna, Australia prohibits exports of wild specimens of these species under the EPBC Act, and removal of these species from the wild is strictly controlled. Additionally, there are numerous ongoing conservation efforts in Australia by Federal and state governments, indigenous peoples, and private organizations and landowners that likely benefit these species including, but not limited to: (1) Protected areas; (2) recent anti-clearing legislation; (3) protections and initiatives for nest hollows; (4) non-native predator and competitor control programs (*e.g.,* feral cats, red foxes, rabbits); and (5) programs for construction and placement of artificial nest hollows for the turquoise parrot.

Comment: Two commenters expressed their view that our listing proposal was procedurally invalid under the Act because finalizing a 12-year-old proposed delisting rule violates section 4(b)(6) and section 4(c) of the Act, which require that the Service finalize any proposed rule within 1 year of publication of the proposed rule unless narrow exceptions apply. These commenters opined that the Act requires the Service to withdraw the proposed rule if those exceptions do not apply.

Our Response: We disagree. The Service's proposal has not been invalidated, and with this final rule, all procedural requirements under section 4(b) of the Act have been met. Further, consistent with our regulations at 50 CFR 424.17(a)(1)(iii) and (a)(3), the Act does not allow for withdrawal of a proposed listing determination solely because of the passage of time; any withdrawal must be based upon a finding that the available evidence does not justify the action proposed by the rule. Additionally, as explained above, the purpose of the scientific review under section 4(c) of the Act is to ensure that the List of Endangered and Threatened Wildlife accurately reflects the most current status information for each listed species. In our 2000 review, we requested comments and the most current scientific or commercial information available on these species, and based on that review, we reevaluated the listing of the scarlet-chested parrot and the turquoise parrot.

On September 2, 2003, we published our review of the status of these species and a proposed rule (68 FR 52169) to remove the scarlet-chested and turquoise parakeets from the List under the Act because the endangered designation no longer correctly reflected the current conservation status of these birds, as the best available information indicated that they had recovered. We explained that our review of the best available information showed that the wild populations of these species were stable with more than 20,000 turquoise parakeets and 10,000 scarlet-chested parakeets found throughout their range. Furthermore, trade in wild-caught specimens was strictly limited, and the species were protected through domestic regulation within the range

country (Australia), as well as through additional national and international treaties and laws.

On January 21, 2016, because considerable time had passed since the 2003 proposal, we published the reopening of the public comment period on our proposal to remove the scarlet-chested and turquoise parakeets from the List (81 FR 3373). We took these actions to determine whether removing these species from the List is still warranted, and to ensure that we sought, received, and made our final decision based on the best scientific and commercial information available regarding these species and their status and threats. This final rule is based on the best scientific and commercial information available regarding these species and includes information summarized from status reviews we conducted in 2016–2017 for the scarlet-chested and the turquoise parrots. These status reviews are available on the Internet at *http://www.regulations.gov* as supporting documentation for Docket No. FWS–HQ–ES–2015–0176. Sections from the status reviews were added (in part or entirely) to the preamble to this final rule. These new sections in the preamble are updates or additions to information that was presented in the 2003 proposal to remove the scarlet-chested and turquoise parakeets from the list (68 FR 52169, September 2, 2003).

Finding

Our regulations direct us to determine if a species is endangered or threatened due to any one or a combination of the five threat factors identified in the Act (50 CFR 424.11(c)). We examined the best scientific and commercial information available regarding the past, present, and future threats faced by the species. We reviewed information available in our files and other available published and unpublished information, and we consulted with recognized species and habitat experts and representatives of the range country (Australia).

Scarlet-Chested Parrot

We consider cumulative effects to be the potential stressors to the species in totality and combination, and the degree to which there might be any synergistic effects among any of the stressors (*e.g.,* increased fire frequency and potential decline in nesting hollows). This finding constitutes our cumulative-effects analysis. In the discussions above, we evaluated the individual effects of the following potential stressors to the scarlet-chested parrot: Land clearing and altered fire regimes (Factor A); limited nest hollows (Factor A); illegal collection and trade (Factor B); Psittacine beak and feather disease (Factor C); predation from non-native species (Factor C); competition for nest hollows (Factor C); effects from small population size (Factor E); and effects from climate change (Factor E). Although one or some of these stressors may be acting on the species in some manner, we found no data to indicate that these stressors, individually or cumulatively, are causing the species to be in danger of extinction, either now or in the foreseeable future. In the face of these stressors, the population appears to be stable, with no evidence of decline in the last 20 years. We have concluded that this stability is not due to listing under the Act; thus, we do not expect declines due to the removal of the protections provided by the listing under the Act.

The Australian Government does not include the scarlet-chested parrot in the EPBC Act's List of Threatened Fauna (Australian DEE 2017, unpaginated) either because it was never nominated for consideration, or if it was nominated, it was found ineligible by a rigorous scientific assessment of the species' threat status (Australian DEE 2017b, unpaginated). The 2000 Action Plan for Australian Birds listed it nationally as ''Least Concern'' and then did not list it in the 2010 Action Plan for Australian Birds. As such, there is no national recovery plan for the scarlet-chested parrot.

The species is listed on the IUCN Red List as ''Least Concern.'' Domestic and international trade in wild-caught specimens is limited and strictly regulated. The species is protected through domestic regulation in Australia and through additional national and international treaties and laws.

As with all species, the scarlet-chested parrot is subject to some stressors. As discussed above, however, we reviewed those stressors and conclude that individually and cumulatively they are currently not having a significant impact on the species. This determination is evidenced by the apparent stability of the population of the species for the last 20 years. Therefore we conclude, based on our review of the best available scientific and commercial data, that the scarlet-chested parrot is not currently in danger of extinction throughout all of its range. In addition, we considered whether the impact of any of the stressors is likely to significantly increase, individually or cumulatively, within the foreseeable future. We conclude, based on our review of the best available scientific and commercial data, that stressors are not likely to increase such that they would cause significant population declines within the foreseeable future, or otherwise to result in the species becoming in danger of extinction within the foreseeable future throughout all of its range.

Turquoise Parrot

We consider cumulative effects to be the potential stressors to the species in totality and combination, and the degree to which there might be any synergistic effects among any of the stressors (*e.g.,* nest predation by foxes and the loss of nesting hollows); this finding constitutes our cumulative-effects analysis. In the discussions above, we evaluated the individual effects of the following potential stressors to the turquoise parrot: Land clearing and forest fragmentation (Factor A); altered fire regimes (Factor A); limited nest hollows (Factor A); removal from the wild for food (Factor B); illegal collection and trade (Factor B); Psittacine beak and feather disease (Factor C); predation from non-native species (Factor C); competition for food and nest hollows (Factor C); and effects from climate change (Factor E). Although one or some of these stressors may be acting on the turquoise parrot in some manner, we found no data to indicate that these stressors, individually or cumulatively, are causing the species to be in danger of extinction, either now or in the foreseeable future. In the face of these stressors, the population appears to be stable and may be increasing in some areas.

The Australian Government does not include the turquoise parrot in the EPBC Act's List of Threatened Fauna (Australian DEE 2017, unpaginated), either because it was never nominated for consideration, or if it was nominated, it was found ineligible by a rigorous scientific assessment of the species' threat status (Australian DEE 2017b, unpaginated). The 2000 Action Plan for Australian Birds listed it nationally as ''Near Threatened'' but then did not list it in the 2010 Action Plan for Australian Birds because the population was too large to be considered ''near threatened'' and there was no evidence of a recent decline (Garnett *et al.* 2011, p. 429). As such, there is no national recovery plan for the turquoise parrot.

The species is listed on the IUCN Red List as ''Least Concern.'' Domestic and international trade in wild-caught specimens is limited and strictly regulated. The species is protected through domestic regulation in

Australia and through additional national and international treaties and laws.

As with all species, the turquoise parrot is subject to some stressors. As discussed above, however, we reviewed those stressors and conclude that individually and cumulatively they are currently not having a significant impact on the species. This is evidenced by the apparent stable population of approximately 20,000 individuals with increases reported in some areas. Therefore, we conclude, based on our review of the best available scientific and commercial data, that the turquoise parrot is not currently in danger of extinction throughout all of its range. In addition, we considered whether the impact of any of the stressors is likely to significantly increase, individually or cumulatively, within the foreseeable future. We conclude, based on our review of the best available scientific and commercial data, that stressors are not likely to increase such that they would cause significant population declines within the foreseeable future, or otherwise to result in the species becoming in danger of extinction within the foreseeable future throughout all of its range.

We have carefully assessed the best scientific and commercial data available and determined that the scarlet-chested and turquoise parrots are no longer in danger of extinction throughout all their respective ranges, nor are they likely to become so in the foreseeable future.

Significant Portion of Its Range Analysis

Having examined the status of the scarlet-chested and turquoise parrots throughout all of their ranges, we next examine whether these species are in danger of extinction, or likely to become so, in a significant portion of their respective ranges. Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so throughout all or a significant portion of its range. The Act defines ''endangered species'' as any species which is ''in danger of extinction throughout all or a significant portion of its range,'' and ''threatened species'' as any species which is ''likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' The term ''species'' includes ''any subspecies of fish or wildlife or plants, and any distinct population segment [DPS] of any species of vertebrate fish or wildlife which interbreeds when mature.'' We published a final policy interpreting the phrase ''significant portion of its range'' (SPR) (79 FR 37578; July 1, 2014).

The final policy states that (1) if a species is found to be endangered or threatened throughout a significant portion of its range, the entire species is listed as an endangered or a threatened species, respectively, and the Act's protections apply to all individuals of the species wherever found; (2) a portion of the range of a species is ''significant'' if the species is not currently endangered or threatened throughout all of its range, but the portion's contribution to the viability of the species is so important that, without the members in that portion, the species would be in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range; (3) the range of a species is considered to be the general geographical area within which that species can be found at the time the Service or the National Marine Fisheries Service (NMFS) makes any particular status determination; and (4) if a vertebrate species is endangered or threatened throughout an SPR, and the population in that significant portion is a valid DPS, we will list the DPS rather than the entire taxonomic species or subspecies.

The SPR policy is applied to all status determinations, including analyses for the purposes of making listing, delisting, and reclassification determinations. The procedure for analyzing whether any portion is an SPR is similar, regardless of the type of status determination we are making. The first step in our analysis of the status of a species is to determine its status throughout all of its range. If we determine that the species is in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range, we list the species as an endangered (or threatened) species and no SPR analysis is required. If the species is neither in danger of extinction nor likely to become so throughout all of its range, we determine whether the species is in danger of extinction or likely to become so throughout a significant portion of its range. If it is, we list the species as an endangered or a threatened species, respectively; if it is not, we conclude that listing the species is not warranted.

When we conduct an SPR analysis, we first identify any portions of the species' range that warrant further consideration. The range of a species can theoretically be divided into portions in an infinite number of ways. However, there is no purpose to analyzing portions of the range that are not reasonably likely to be significant and endangered or threatened. To identify only those portions that warrant further consideration, we determine whether there is substantial information indicating that (1) the portions may be significant and (2) the species may be in danger of extinction in those portions or likely to become so within the foreseeable future.

We emphasize that answering these questions in the affirmative is not a determination that the species is endangered or threatened throughout a significant portion of its range—rather, it is a step in determining whether a more detailed analysis of the issue is required. In practice, a key part of this analysis is whether the threats are geographically concentrated in some way. If the threats to the species are affecting it uniformly throughout its range, no portion is likely to warrant further consideration. Moreover, if any concentration of threats applies only to portions of the range that clearly do not meet the biologically based definition of ''significant'' (*i.e.,* the loss of that portion clearly would not be expected to increase the vulnerability to extinction of the entire species), those portions will not warrant further consideration. If we identify any portions that may be both (1) significant and (2) endangered or threatened, we engage in a more detailed analysis to determine whether these standards are indeed met. To determine whether a species is endangered or threatened throughout an SPR, we will use the same standards and methodology that we use to determine if a species is endangered or threatened throughout its range.

Depending on the biology of the species, its range, and the threats it faces, it may be more efficient to address the ''significant'' question first, or the status question first. Thus, if we determine that a portion of the range is not ''significant,'' we do not need to determine whether the species is endangered or threatened there; if we determine that the species is not endangered or threatened in a portion of its range, we do not need to determine if that portion is ''significant.''

Scarlet-Chested Parrot

Applying the process described above, we evaluated portions of the scarlet-chested parrot's range that may be significant, and examined whether any threats are geographically concentrated in some way that would indicate that those portions of the range may be in danger of extinction, or likely to become so in the foreseeable future. The range available to the scarlet-chested parrot is very large (262,000 km^2 (101,159 mi^2); BLI 2016a, unpaginated). Within this range, the

Great Victoria Desert, located in southwestern Australia, may be of biological or conservation importance to the scarlet-chested parrot, because the species is primarily concentrated in the better vegetated areas of this region (BLI 2016a, unpaginated; Juniper and Parr 1998, p. 366). Therefore, the Great Victoria Desert has the potential to be of greater biological or conservation importance than other areas and may constitute a significant portion of the parrot's range.

We next examined whether any stressors are geographically concentrated in some way that would indicate the species could be in danger of extinction, or likely to become so, in this portion. We examined potential stressors, including land clearing, altered fire regimes, limited nest hollows, illegal collection and trade, Psittacine beak and feather disease, predation from non-native species, competition for food and nest hollows, small population size, and effects from climate change. All these stressors appeared to be uniform across the range of the species, with the exception of potential effects from climate change (See *Climate change and the scarlet-chested parrot* above). A recent climate-change-adaptation model indicated a long-term range contraction to the southern portion of its range (to an area that includes the Great Victoria Desert) (Garnett *et al.* 2013b, interactive model results). However, given the uncertainty in the modelling of future climate scenarios, particularly patterns of precipitation, we are unable to reliably discern if the areas projected to be lost will result in any significant threat. While regions of the Great Victoria Desert may be significant, information and analyses indicate that the species is unlikely to be in danger of extinction or become so in the foreseeable future in this portion.

All other stressors appear to be uniform across the range of the species. The scarlet-chested parrot is adapted to arid landscapes and able to travel great distances. The population is not known to be fragmented (Snyder *et al.* 2000, p. 57) and appears to be stable, with no evidence of decline in the last 20 years (BLI 2016a, unpaginated; BLI 2012a, p. 4). Therefore, based on the best scientific and commercial data available, no portion warrants further consideration to determine whether the species may be endangered or threatened in a significant portion of its range.

Turquoise Parrot

We evaluated portions of the turquoise parrot's range that may be significant, and examined whether any threats are geographically concentrated in some way that would indicate that those portions of the range may be in danger of extinction, or likely to become so in the foreseeable future. The turquoise parrot occurs in many parts of eastern and southeastern Australia, particularly the foothills of the Great Dividing Range (NSW 2009, unpaginated; Garnett and Crowley 2000b, p. 345; Juniper and Parr 1988, p. 365). The Great Dividing Range is formed from multiple mountain ranges that dominate the eastern Australia landmass. The species' distribution is not continuous but rather occurs in patches of suitable habitat throughout this broader range (Tzaros 2016, unpaginated; Forshaw 1989, p. 286), and about 90 percent of the population is thought to occur in New South Wales (NSW 2009, unpaginated). We did not identify any natural divisions within the range that may be of biological or conservation importance with the exception that the central portion of the parrot's current range (in New South Wales) could be considered significant based on the concentration of parrots there.

We next examined whether any stressors are geographically concentrated in some way that would indicate the species could be in danger of extinction, or likely to become so in the foreseeable future. We examined potential stressors, including land clearing, altered fire regimes, limited nest hollows, illegal collection and trade, Psittacine beak and feather disease, predation from non-native species competition for food and nest hollows, and effects from climate change. All these stressors appeared to be uniform across the range of the species, with the exception of potential effects from climate change (See *Climate change and the turquoise parrot* above).

A recent climate-change-adaptation model indicated a long-term range contraction by about one half to the southern part of its current range (*i.e.,* dropping out of Queensland but remaining in portions of New South Wales and Victoria) by 2085 (Garnett *et al.* 2013c, interactive model results). This reduced climate space includes developed regions near Sydney and in and around Melbourne (Garnett *et al.* 2013c, interactive model results). Currently, approximately 90 percent of the population is distributed in eastern portions of New South Wales. Based on the modeling, the species would experience a reduction in climate space in New South Wales that is approximately a little more than one half of what is currently modeled. The modeled climate space in Victoria may improve somewhat with more areas becoming suitable for the parrot. However, given the uncertainty in the modelling of future climate scenarios, particularly patterns of precipitation, we are unable to reliably discern if the areas projected to be lost will result in any significant threat. While areas in New South Wales may be significant to the parrot, information and analyses indicate that the species is unlikely to be in danger of extinction or become so in the foreseeable future in this portion.

All other stressors appear to be uniform across the range of the species. The population of the turquoise parrot now numbers more than 20,000 individuals. The population appears to be stable and may be increasing in some areas. Therefore, based on the best scientific and commercial data available, no portion warrants further consideration to determine whether the species may be endangered or threatened in a significant portion of its range.

Summary

We have carefully assessed the best scientific and commercial data available and have determined that the scarlet-chested and turquoise parrots are no longer in danger of extinction throughout all or significant portions of their respective ranges, nor are they likely to become so in the foreseeable future. As a consequence of this determination, we are removing these species from the Federal List of Endangered and Threatened Wildlife.

Effects of the Rule

This final rule revises 50 CFR 17.11(h) by removing the scarlet-chested and turquoise parakeets from the Federal List of Endangered and Threatened Wildlife. As of the effective date of this rule (see **DATES**), the prohibitions and conservation measures provided by the Act, particularly through sections 7, 8 and 9, no longer apply to these species. The scarlet-chested and turquoise parrots will remain protected under the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). To date, the scarlet-chested and turquoise parrots remain on the Approved List of captive-bred species under the WBCA, which allows import or export of captive-bred individuals of these species without a WBCA permit.

Required Determinations

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act, need not be prepared in connection with listing or reclassification of a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of references cited in this rulemaking is available on the Internet at *http://www.regulations.gov* under Docket No. FWS–HQ–ES–2015–0176 or upon request (see **FOR FURTHER INFORMATION CONTACT**).

Authors

This final rule was authored by staff of the Branch of Foreign Species, Ecological Services Program, U.S. Fish and Wildlife Service.

List of Subjects

50 CFR Part 15

Imports, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 15 and part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 15—WILD BIRD CONSERVATION ACT

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

Authority: 16 U.S.C. 4901–4916.

■ 2. Amend § 15.33(a) by:

■ a. Amending the entries in the table for ''*Neophema pulchella* [1] (Turquoise parrot.)'' and ''*Neophema splendida* [1] (Scarlet-chested parrot.)'' by removing the footnote superscripts; and

■ b. Revising footnote 1 following the table to read as follows:

§ 15.33 Species included in the approved list.

(a) * * *

[1] **Note:** Permits are still required for this species under part 17 of this chapter.

* * * * *

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 3. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

§ 17.11 [Amended]

■ 4. Amend § 17.11(h) by removing the entries for ''Parakeet, scarlet-chested'' and ''Parakeet, turquoise'' under BIRDS in the List of Endangered and Threatened Wildlife.

Dated: March 3, 2017.

James W. Kurth

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2017–06663 Filed 4–4–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 161020985–7181–02]

RIN 0648–XF334

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by catcher vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the B season apportionment of the 2017 Pacific cod total allowable catch allocated to catcher vessels using trawl gear in the BSAI.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), April 3, 2017, through 1200 hours, A.l.t., June 10, 2017.

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

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

The B season apportionment of the 2017 Pacific cod total allowable catch (TAC) allocated to catcher vessels using trawl gear in the BSAI is 5,197 metric tons (mt) as established by the final 2017 and 2018 harvest specifications for groundfish in the BSAI (82 FR 11826, February 27, 2017.

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the B season apportionment of the 2017 Pacific cod TAC allocated to trawl catcher vessels in the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 4,697 mt and is setting aside the remaining 500 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels using trawl gear in the BSAI.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Acting Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of directed fishing for Pacific cod by catcher vessels using trawl gear in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 30, 2017.

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

prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: March 31, 2017.

Karen H. Abrams,

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

[FR Doc. 2017–06723 Filed 3–31–17; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 82, No. 64
Wednesday, April 5, 2017

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

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 401, 403, and 404

[USCG–2016–0268]

RIN 1625–AC34

Great Lakes Pilotage Rates—2017 Annual Review

AGENCY: Coast Guard, DHS.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to modify its calculations for hourly pilotage rates on the Great Lakes by accounting for the ''weighting factor,'' which is a multiplier that can increase the pilotage costs for larger vessels traversing areas in the Great Lakes by a factor of up to 1.45. While the weighting factor has existed for decades, it has never been included in any of the previous ratemaking calculations. We propose to add steps to our rate-setting methodology to adjust hourly rates downwards by an amount equal to the average weighting factor, so that when the weighting factor is applied, the cost to the shippers and the corresponding revenue generated for the pilot associations will adjust to what was originally intended. We note that until a final rule is produced, the 2016 rates will stay in effect, even if a final rule is not published by the start of the 2017 season.

DATES: Comments and related material must be submitted to the online docket via *www.regulations.gov* on or before May 5, 2017.

ADDRESSES: You may submit comments identified by docket number USCG–2016–0268 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: For information about this document, call or email Mr. Todd Haviland, Director, Great Lakes Pilotage, Commandant (CG–WWM–2), Coast Guard; telephone 202–372–2037, email *Todd.A.Haviland@uscg.mil,* or fax 202–372–1914.

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Public Participation and Request for Comments
II. Abbreviations
III. Executive Summary
IV. Basis and Purpose
V. Background
VI. Discussion of Proposed Changes
VII. Regulatory Analyses
A. Regulatory Planning and Review
B. Small Entities
C. Assistance for Small Entities
D. Collection of Information
E. Federalism
F. Unfunded Mandates Reform Act
G. Taking of Private Property
H. Civil Justice Reform
I. Protection of Children
J. Indian Tribal Governments
K. Energy Effects
L. Technical Standards
M. Environment

I. 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 note that, in this supplemental notice of proposed rulemaking (SNPRM), we are only soliciting comments regarding the addition of the weighting factor adjustment into the Coast Guard's Great Lakes pilotage methodology. The Coast Guard is neither soliciting, nor are we considering, comments relating to any other part of the Great Lakes Pilotage rate setting methodology. Although we left all other items in the proposed October 2016 notice of proposed rulemaking (NPRM) as if they were unchanged, we note that those items are still under consideration by the Coast Guard and may be amended in the final rule. Any changes in the final rule will be based only on (1) comments submitted prior to the December 19, 2016 deadline for the NPRM comment period, and (2) comments submitted in response to this SNPRM regarding the weighting factor adjustment.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

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

We are not planning to hold a public meeting but will consider doing so if public comments indicate a meeting would be helpful. We would issue a separate **Federal Register** notice to announce the date, time, and location of such a meeting.

II. Abbreviations

CFR Code of Federal Regulations
CPI Consumer Price Index
FR Federal Register
NPRM Notice of proposed rulemaking
OMB Office of Management and Budget
SNPRM Supplemental notice of proposed rulemaking
U.S.C. United States Code

III. Executive Summary

In this SNPRM, the Coast Guard proposes changes in its methodology to adjust for the weighting factor charged for larger vessels. The result of the adjustment would be a reduction in the hourly pilotage rates in the Great Lakes region from amounts proposed in the NPRM, published in October 2016 (81 FR 72011, October 19, 2016). This

action does not change the total amount of projected revenue we deem necessary for the pilot associations to provide safe, efficient, and reliable service, but would have the practical effect of reducing the actual amount of money paid as pilotage fees by shippers by approximately 28 to 32 percent. The Coast Guard believes that this adjustment in hourly rates would allow us to more accurately project the amount of revenue to be collected that we consider necessary for the pilot associations to carry out their duties.

We note that until a final rule is produced, the 2016 rates will stay in effect, even if a final rule is not published by the start of the 2017 season.

Pursuant to the Great Lakes Pilotage Act, the Coast Guard sets hourly rates for pilot services on the Great Lakes. While all vessels must pay these base rates, larger vessels pay a higher rate, as a ''weighting factor'' multiplies the base rates they pay by a factor of 1.15 to 1.45. In past rate-settings, the methodology used to calculate hourly rates on the Great Lakes did not adjust the rates for the weighting factor. During the 2016 shipping season, under the revised methodology, preliminary estimates of actual revenues exceeded the projected revenues, even when adjusted for increased shipping traffic.

Based on the 2016 data, we believe it is necessary to account for the weighting factors in the hourly rate calculation in the methodology in order for the U.S. Great Lakes pilot associations to more accurately generate total revenues. Our projections for total revenues are intended to ensure safe, efficient, and reliable pilotage service. One goal of our methodology is to produce revenues that reflect the level of actual pilotage demand. While we recognize that traffic varies from year to year, in years where traffic is higher than the 10-year rolling average, the rates should generate more revenue than our projections. In years where traffic is lower than the 10-year rolling average, the rates should generate less than our projections. The variance in actual demand for pilotage services should align with the variance in actual revenues.

The preliminary information we have available to us after 1 year under the revised methodology indicates that not adjusting for the weighting factor in the calculation of hourly rates has contributed to actual revenues exceeding our projected revenues. We believe that revising the methodology to adjust hourly rates for the weighting factors would improve the ability of the methodology to more closely match projections of total revenue with the actual revenue generated.

Table 1 shows the proposed changes in the pilotage charges per hour. The first column lists the current pilotage charges in force, the second column shows the rate increase that the Coast Guard proposed in October of 2016, and the third column shows the revised rates, which incorporate an adjustment for the weighting factors into the ratemaking methodology. We note that this rule does not change the weighting factors themselves, only the methodology used to calculate base hourly pilotage rates. Additionally, this does not change the overall revenue we project as necessary to provide safe, efficient, and reliable pilotage service. As this action does not change the amount of projected revenue we deem necessary for the pilot associations, the Regulatory Analyses remains unchanged from the NPRM.

TABLE 1—SUMMARY OF CURRENT AND PROPOSED PILOTAGE FEES, FROM 46 CFR 401.405

Area	Current pilotage charges per hour	NPRM proposed charges per hour	SNPRM proposed charges per hour
St. Lawrence River	$580	$757	$592
Lake Ontario	398	522	402
Navigable waters from Southeast Shoal to Port Huron, MI	684	720	546
Lake Erie	448	537	408
St. Mary's River	528	661	508
Lakes Huron, Michigan, and Superior	264	280	215

IV. Basis and Purpose

The legal basis of this rulemaking is the Great Lakes Pilotage Act of 1960 (''the Act''), which requires U.S.-flagged and foreign-flagged vessels to use U.S. or Canadian registered pilots while transiting the U.S. waters of the St. Lawrence Seaway and the Great Lakes system. For the U.S. registered Great Lakes pilots, the Act requires the Secretary to ''prescribe by regulation rates and charges for pilotage services, giving consideration to the public interest and the costs of providing the services.'' The Act requires that rates be established or reviewed and adjusted each year, not later than March 1. Also, the Act requires the establishment of a full ratemaking at least once every 5 years, and in years when base rates are not established, they must be reviewed and, if necessary, adjusted. The Secretary's duties and authority under the Act have been delegated to the Coast Guard.

In this SNPRM, the Coast Guard proposes to incorporate the weighting factor into its method of calculating pilotage rates set forth in the previously-published NPRM (81 FR 72011, October 19, 2016). This SNPRM does not propose to make any other adjustments to the methodology proposed in that NPRM.

V. Background

Because the Coast Guard is charged by statute with setting pilotage rates by regulation, taking into account the public interest and the cost of providing services, we have in the past used a methodology that attempts to determine the amount of traffic, the number of pilots needed to handle that traffic, allowable operating expenses, and a fair pilot compensation. It uses these calculations to set a mandatory cost of pilotage for each of six areas in the Great Lakes region.[1] In the past, the Coast Guard's modeling efforts fell short, leaving pilots in the Great Lakes substantially undercompensated compared to their peers, and resulting in retention and attrition problems, as well as shipping delays, which led to a disruption of commerce. These revenue shortfalls also prevented the pilot associations from investing in infrastructure, obtaining educational opportunities, and acquiring the latest technological tools to improve service. In order to correct these problems, the Coast Guard undertook a major overhaul of its rate-setting program in 2016, substantially revising how it made those

[1] See 46 CFR 401.405.

calculations and adjusting the per-hour pilotage rates accordingly.

Because the Coast Guard sets pilotage rates on a yearly basis, we proposed changes to the 2016 methodology for 2017, issuing an NPRM in October 2016 that proposed various modifications to the 2016 methodology for the 2017 shipping season. In our NPRM, we proposed a substantial number of changes in how to determine operating expenses and the number of pilots needed. The proposed methodology is carried out in an eight-step process, separately for each area, as described briefly below. For a fuller explanation of the process, please refer to the NPRM, at 81 FR 72011 beginning on page 72013.

Step 1: *Recognize previous year's operating expenses.* In this step, the Coast Guard would use audited financial information from the pilot's association to determine recognized operating expenses from the previous year. These include expenses such as insurance, administrative expenses, payroll taxes, and other items. However, they do not include pilot compensation or money for infrastructure projects.

Step 2: *Project next year's operating expenses.* In this step, we would multiply the previous year's operating expenses by the Consumer Price Index (CPI) for the Midwest region.

Step 3: *Determine the number of pilots needed.* In this step, we would determine the number of pilots needed by dividing the total number of hours worked by the average pilot cycle (that is, the full cycle, including work time, travel time, and rest time). That number is multiplied by an ''efficiency factor'' to account for times of double pilotage as well as time spent waiting for ships.

Step 4: *Determine target pilot compensation.* In this step, we would establish a goal for what an average pilot should earn over the course of the shipping season.

Step 5: *Determine working capital fund.* In this step, we would determine the amount of money needed to fund future capital projects by multiplying the operating expenses and pilot compensation by the average annual rate of return for new issuances of high-grade corporate securities, currently set at 4.16 percent.

Step 6: *Project needed revenue for next year.* In this step, we would add the projected operating expenses, the target pilot compensation, and the working capital fund to arrive at a total amount needed to cover the upcoming year's revenue needs.

Step 7: *Make initial base rate calculations.* In this step, we would divide the revenue needed by the 10-year running average of hours worked, to arrive at preliminary hourly rate figures.

Step 8: *Review and finalize rates.* This step would allow the Director of the Great Lakes Pilotage Office to impose surcharges for the training of new pilots and other unexpected expenses.

Using this process, the Coast Guard produced the following proposed changes to the hourly pilotage rates, as summarized in Table 2. As shown by the figures in the table, the NPRM proposed increases of varying sizes for rates in each of the six regions.

TABLE 2—PROPOSED CHANGES TO THE HOURLY PILOTAGE RATES IN THE 2017 NPRM

Area	Current pilotage charge per hour	NPRM proposed charges per hour
St. Lawrence River (District One Designated)	$580	$757
(District One Undesignated) Lake Ontario	398	522
(District Two Undesignated) Lake Erie	448	537
Navigable waters from Southeast Shoal to Port Huron, MI (District Two Designated)	684	720
District Three Undesignated Lakes Huron, Michigan, and Superior	264	280
St. Mary's River (District Three Designated)	528	661

While we believe that the ratemaking calculations proposed in the NPRM are fairly comprehensive, there is one item that is currently not captured by that methodology. This item is the ''weighting factor.'' The weighting factor is a multiplier of between 1.0 and 1.45, which is applied to the total pilot costs for larger vessels. The weighting factor has been used to ensure that larger vessels, which can absorb more in pilotage costs than smaller ones, pay a larger percentage of the total costs of pilotage in the Great Lakes. However, while the weighting factor increases the total pilotage revenue generated, it is not used in the calculation of pilotage rates. Instead, as shown earlier in Step 7 of the rate-setting process, we use only the total number of hours to set pilotage rates, which is not adjusted to include additional revenues brought in due to the weighting factor.

VI. Discussion of Proposed Changes

In the NPRM, the Coast Guard did not propose to incorporate the weighting factors into the rate-setting methodology. We stated that we did not have sufficient data at the time of the NPRM to incorporate them into the calculations. While we discussed three options on how to proceed, we specifically stated that ''we request public comment on which of three options should be implemented for future ratemakings.'' The three options were as follows: (1) Maintain the status quo, by continuing to mandate the weighting factors while leaving them out of the ratemaking calculation; (2) remove the weighting factors completely and charge each vessel equally for pilotage service; and (3) incorporate weighting factors into the rulemaking through an additional step that examines and projects their impact on the revenues of the pilot associations. We note that this third option ''might enable us to better forecast revenue, but it would add another variable to the projections in the rate methodology.'' (81 FR at 72027)

In the comments to the NPRM, the Coast Guard received data and commentary from both shippers and pilots regarding the weighting factors. One commenter, representing the pilots, stated that the Coast Guard has ''correctly explained that the weighting factors are separate from the ratemaking calculation.''[2] The commenter noted that ''over the last decade, the pilots have consistently failed to reach target compensation even with the weighting factors included. Changing this practice would exacerbate an already unfortunate situation and risk further contributing to the pilot attraction and retention difficulties.'' The commenter also stated that although the final numbers for the 2016 season were not

[2] Commenter docket number (USCG–2016–0268–0028), p. 9, citing the NPRM at 81 FR 72027.

available at the time of the NPRM's publication, they believe there is nothing in this most recent shipping season that suggests the trend of failing to reach the target compensation level is abating.

Shippers, on the other hand, argued that the weighting factors should be included in the revenue calculations. The shipping industry commenters stated that revenue projections in the Coast Guard's regulations will not be accurate if they do not include some value reflecting vessel size, and that it is an ''arithmetic certainty'' that the revenue projections in the NPRM would overstate the rates needed to generate a given level of pilotage revenue.[3] The shipping industry comments included data indicating that the average weighting factor applied to all ships over a period from 2010 through 2015 as 1.26.[4] Similarly, comments from the Shipping Federation of Canada, included as an enclosure, stated that the weighting factor adds an average of over 20 percent to the pilotage invoice revenue.

Because the weighting factors were adjusted in 2014, we propose using the measured average of weighting factors from the years 2014 through 2016 to calculate an average weighting factor to use in the ratemaking calculations. We calculated the average multiplier by weighting each class of vessels according to the number of transits, for each district, and for designated and undesignated areas. We note this is a different method than used by the shipping industry in their comments, which we averaged by the number of ships. We believe our methodology is more accurate as some ships will transit multiple times per year, paying the weighted pilotage cost each time. The following tables show the calculations we used to determine proposed average weighting factors in both designated and undesignated waters for each district.

TABLE 3a—CALCULATION OF AVERAGE WEIGHTING FACTOR FOR DESIGNATED WATERS IN DISTRICT ONE

Vessel class	Number of transits	Weighting factor	Multiplier
Class 1	103	1.00	103
Class 2	765	1.15	879.75
Class 3	128	1.30	166.4
Class 4	736	1.45	1,067.2
Total transits	1,732		2,216.35
Average weighting factor			1.28

TABLE 3b—CALCULATION OF AVERAGE WEIGHTING FACTOR FOR UNDESIGNATED WATERS IN DISTRICT ONE

Vessel class	Number of transits	Weighting factor	Multiplier
Class 1	71	1.00	71
Class 2	670	1.15	770.5
Class 3	130	1.30	169
Class 4	780	1.45	1,131
Total	1,651		2,141.5
Average weighting factor			1.30

TABLE 3c—CALCULATION OF AVERAGE WEIGHTING FACTOR FOR DESIGNATED WATERS IN DISTRICT TWO

Vessel class	Number of transits	Weighting factor	Multiplier
Class 1	98	1.00	98
Class 2	1,090	1.15	1,253.5
Class 3	29	1.30	37.7
Class 4	1,664	1.45	2,412.8
Total	2,881		3,802
Average weighting factor			1.32

TABLE 3d—CALCULATION OF AVERAGE WEIGHTING FACTOR FOR UNDESIGNATED WATERS IN DISTRICT TWO

Vessel class	Number of transits	Weighting factor	Multiplier
Class 1	63	1.00	63
Class 2	678	1.15	779.7
Class 3	20	1.30	26
Class 4	980	1.45	1,421

[3] Commenter docket number (USCG–2016–0268–0033), pp. 29–30.

[4] Commenter docket number (USCG–2016–0268–0033, Exhibit I). While the commenter found some lower weighting factor averages in the years prior to 2014, we have focused on the later years because the classification parameters for weighting factors changed in 2013, producing overall lower values.

TABLE 3d—CALCULATION OF AVERAGE WEIGHTING FACTOR FOR UNDESIGNATED WATERS IN DISTRICT TWO—Continued

Vessel class	Number of transits	Weighting factor	Multiplier
Total	1,741		2,289.7
Average weighting factor			1.32

TABLE 3e—CALCULATION OF AVERAGE WEIGHTING FACTOR FOR DESIGNATED WATERS IN DISTRICT THREE

Vessel class	Number of transits	Weighting factor	Multiplier
Class 1	105	1.00	105
Class 2	540	1.15	621
Class 3	10	1.30	13
Class 4	757	1.45	1,097.65
Total	1,412		1,836.65
Average weighting factor			1.30

TABLE 3f—CALCULATION OF AVERAGE WEIGHTING FACTOR FOR UNDESIGNATED WATERS IN DISTRICT THREE

Vessel class	Number of transits	Weighting factor	Multiplier
Class 1	244	1.00	244
Class 2	1,237	1.15	1,422.55
Class 3	43	1.30	55.9
Class 4	1,801	1.45	2,611.45
Total	3,325		4,333.9
Average weighting factor			1.30

TABLE 3g—SUMMARY OF AVERAGE WEIGHTING FACTORS BY ASSOCIATION

Association	Undesignated weighting factor	Designated weighting factor	Total weighting factor
Saint Lawrence Seaway Pilots Association (District One)	1.28	1.30	1.29
Lakes Pilots Association (District Two)	1.32	1.32	1.32
Western Great Lakes Pilots Association (District Three)	1.30	1.30	1.30

Using preliminary data from the pilot associations for the entire 2016 season with regard to revenues and surcharges, as well as internal Coast Guard systems, we examined disparities between the revenue raised from pilotage services and the total number of hours worked. We expect a relatively simple relationship between hours billed and total revenue raised.[5] However, an examination of the relationship between traffic and revenue in each district appears to produce a significant disparity as shown in Table 4.

TABLE 4—COMPARISON OF ACTUAL 2016 PILOT DEMAND AND REVENUES

Association	Projected pilot demand (hours)	Actual pilot demand (hours)	Projected revenue ($)	Actual revenue ($)
Saint Lawrence Seaway Pilots Association (District One)	10,987	11,651	5,804,945	7,718,852
Lakes Pilots Association (District Two)	10,016	12,022	5,929,641	9,181,265
Western Great Lakes Pilots Association (District Three)	21,670	26,868	7,369,092	10,949,257

Furthermore, the disparities between revenue and demand substantially correlate with the average weighting factors. Table 5 demonstrates this disparity.

[5] We note that other factors can cause discrepancies in the ratio between the actual traffic and actual revenue raised. These other factors include shipping delays, a pilot being detained on the ship or overcarried for the convenience of the vessel, cancelled orders, and weather delays during certain times of the year. We believe that the impact of these factors is often small and we do not believe that they would cause discrepancies of the magnitude experienced in 2016.

TABLE 5—PROPORTIONAL DIFFERENCES BETWEEN DEMAND AND REVENUE

Association/district	Measured percent of projected revenue	Measured percent of projected demand	Proportional difference	Average weighting factor (From Table 3g)
Saint Lawrence Seaway Pilots Association (District One)	133	106	1.254	1.29
Lakes Pilots Association (District Two)	155	120	1.29	1.32
Western Great Lakes Pilots Association (District Three)	149	124	1.198	1.30

For example, for District Two, actual pilot demand was above the pilot demand that the Coast Guard projected in the 2016 ratemaking at a ratio of 120 percent (12,022/10,016). Actual revenue generated was above projected revenue by 155 percent (9,181,265/5,929,641). The ratio of the increase in revenues to the increase in pilot demand is 1.29, compared to the average weighting factor of 1.32.

Based on this analysis, we believe that there is a likelihood that the weighting factors are a factor in the difference between projected and a preliminary review of actual revenue experienced in 2016 under the revised methodology. In this SNPRM, we propose to incorporate the weighting factors into the ratemaking model. The practical result of this would be substantial net reductions in hourly pilotage fees, producing reductions of 28 to 32 percent, depending on the area. We request comments on both the new data introduced by the Coast Guard, as well as this specific proposal.

We note that, given the above calculations (more detailed figures underpinning these calculations are available in the docket for this rulemaking), the proposed weighting factors are higher—particularly in the case of District Three [6]—than the measured disparity between traffic and revenue. As it is our goal that the methodology produces a close relationship between measured traffic and revenue, and gets as close as possible to the published target compensation, we seek comments on any factors that could have an effect on the relationship between those factors. Additionally, we specifically request comment on the validity of our calculations of the weighting factors for each area, as well as suggestions as to how it could be improved. We understand that in the past, the methodology did not produce the anticipated revenue and it is our goal to correct this issue.

Because the weighting factors were adjusted in 2014, we propose using the measured average of weighting factors from the years 2014 to 2016 to calculate an average weighting factor to use in the ratemaking calculations. We calculated the average multiplier by weighting each class of vessel according to the number of transits. We note this is a different method than used by the shipping industry in their comments, which averaged by number of ships. We believe our methodology is more accurate as some ships will transit multiple times per year, paying the weighted pilotage cost each time.

Using these weighting factor averages, the Coast Guard proposes to add two additional steps to our rate making procedure. We propose renumbering existing step 8, the Director's discretion, to step 10, and adding new steps 8 and 9 to account for the influence the weighting factors have on total generated revenues.

In Step 8, which would be codified as 404.108, ''Calculate average weighting factors by Area,'' the Coast Guard proposes to calculate the rolling average of the weighting factors for the designated and undesignated waters of each pilotage district. We propose using the same 10-year rolling average standard for this calculation as we use for historic pilotage demand. Since the current weighting factors came into place in 2013, we propose using the data between 2014 and 2016 and expand this data set until we reach our 10-year goal. Tables 3a through 3f featured earlier, show the data used in these calculations for this SNPRM.

In Step 9, which would be codified as 404.109, ''Calculation of Revised Base Rates,'' the Coast Guard proposes to divide the initial rate calculation, from Step 7 (calculation of the initial base rates), by the average weighting factor calculated in Step 8.

TABLE 6—CALCULATION OF REVISED BASE RATES

Area	Initial base rate (Step 7)	Average weighting factor (Step 8)	Revised rate (initial rate/ weighting factor)
District One: Designated (St. Lawrence River)	$757	1.28	$592
District One: Undesignated (Lake Ontario)	522	1.30	402
District Two: Designated (Southeast Shoal to Port Huron, MI)	720	1.32	546
District Two: Undesignated (Lake Erie)	537	1.32	408
District Three: Designated (St. Mary's River)	661	1.30	508
District Three: Undesignated (Lakes Huron, Michigan, and Superior)	280	1.30	215

[6] We believe that the provision, currently located in 46 CFR 404.107(b) (Step 7), limiting the pilotage rate in designated waters to twice the rate of the pilotage rate in undesignated waters, contributed to the particularly large disparity for District Three. In the NPRM, we proposed to eliminate that provision, and believe that this would help to lessen the future traffic-to-revenue disparity for District Three.

Finally, we propose renaming the Director's Discretion as Step 10, but otherwise leave it unchanged.

VII. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on these statutes or Executive orders.

A. Regulatory Planning and Review

As this action does not change the amount of projected revenue we deem necessary for the pilot associations, the Regulatory Planning and Review remains unchanged from the NPRM.

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') 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 (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. Executive Order 13771 (''Reducing Regulation and Controlling Regulatory Costs''), directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.''

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. As this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. See OMB's memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled 'Reducing Regulation and Controlling Regulatory Costs''' (February 2, 2017).

We developed an analysis of the costs and benefits of the NPRM to ascertain its probable impacts on industry. We consider all estimates and analysis in that Regulatory Analysis (RA) to be subject to change in consideration of public comments. As this SNPRM does not change the total required revenue or any other items that would alter the analysis of the impact of the proposed rule we have not included a separate regulatory analysis in this document. Instead, we refer you to the previously published NPRM to see the analysis of the costs and benefit of the proposed rule.

B. Small Entities

As this action does not change the amount of projected revenue we deem necessary for the pilot associations, the Small Entities analysis remains unchanged from the NPRM.

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether the proposed rule would have a significant economic effect on a substantial number of small entities. 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 people.

Based on the analysis in the NPRM, we found this proposed rulemaking, if promulgated, would not affect a substantial number of small entities.

Therefore, 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. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies, as well as how and to what degree this proposed rule would economically affect it.

C. Assistance for Small Entities

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 so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Todd Haviland, Director, Great Lakes Pilotage, Commandant (CG–WWM–2), Coast Guard; telephone 202–372–2037, email *Todd.A.Haviland@uscg.mil,* or fax 202–372–1914. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). This proposed rule would not change the burden in the collection currently approved by OMB under OMB Control Number 1625–0086, Great Lakes Pilotage Methodology.

E. Federalism

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. Our analysis follows.

Congress directed the Coast Guard to establish ''rates and charges for pilotage services.'' 46 U.S.C. 9303(f). This regulation is issued pursuant to that statute and is preemptive of state law as specified in 46 U.S.C. 9306. Under 46 U.S.C. 9306, a ''State or political subdivision of a State may not regulate or impose any requirement on pilotage on the Great Lakes.'' As a result, States or local governments are expressly prohibited from regulating within this category. Therefore, the rule is consistent with the principles of federalism and preemption requirements in Executive Order 13132.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with implications and preemptive effect, Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this rule has implications for federalism under Executive Order 13132, please

contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

F. 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 discuss the effects of this proposed rule elsewhere in this preamble.

G. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

H. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

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.

K. Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that Executive Order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act (15 U.S.C. 272, note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. 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. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. This proposed rule is categorically excluded under section 2.B.2, and figure 2–1, paragraph 34(a) of the Instruction. Paragraph 34(a) pertains to minor regulatory changes that are editorial or procedural in nature. This proposed rule adjusts rates in accordance with applicable statutory and regulatory mandates. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects

46 CFR Part 401

Administrative practice and procedure, Great Lakes, Navigation (water), Penalties, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 403

Great Lakes, Navigation (water), Reporting and recordkeeping requirements, Seamen, Uniform System of Accounts.

46 CFR Part 404

Great Lakes, Navigation (water), Seamen.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR parts 401, 403, and 404 as follows:

Title 46—Shipping

PART 401—GREAT LAKES PILOTAGE REGULATIONS

■ 1. The authority citation for part 401 continues to read as follows:

Authority: 46 U.S.C. 2103, 2104(a), 6101, 7701, 8105, 9303, 9304; Department of Homeland Security Delegation No. 0170.1(II)(92.a), (92.d), (92.e), (92.f).

■ 2. Revise § 401.401 to read as follows:

§ 401.401 Surcharges.

To facilitate safe, efficient, and reliable pilotage, and for good cause, the Director may authorize surcharges on any rate or charge authorized by this subpart. Surcharges must be proposed for prior public comment and may not be authorized for more than 1 year. Once the approved amount has been received, the pilot association is not authorized to collect any additional funds under the surcharge authority and must cease such collections for the remainder of that shipping season.

■ 3. Revise § 401.405(a) to read as follows:

§ 401.405 Pilotage rates and charges.

(a) The hourly rate for pilotage service on—

(1) The St. Lawrence River is $592;

(2) Lake Ontario is $402;

(3) Lake Erie is $408;

(4) The navigable waters from Southeast Shoal to Port Huron, MI is $546;

(5) Lakes Huron, Michigan, and Superior is $215; and

(6) The St. Mary's River is $508.

* * * * *

■ 4. Revise § 401.420(b) to read as follows:

§ 401.420 Cancellation, delay, or interruption in rendition of services.

* * * * *

(b) When an order for a U.S. pilot's service is cancelled, the vessel can be charged for the pilot's reasonable travel expenses for travel that occurred to and from the pilot's base, and the greater of—

(1) Four hours; or

(2) The time of cancellation and the time of the pilot's scheduled arrival, or the pilot's reporting for duty as ordered, whichever is later.

* * * * *

■ 5. Revise § 401.450 as follows:

■ a. Redesignate paragraphs (b) through (j) as paragraphs (c) through (k), respectively; and

■ b. Add new paragraph (b) to read as follows:

§ 401.450 Pilotage change points.

* * * * *

(b) The Saint Lawrence River between Iroquois Lock and the area of Ogdensburg, NY beginning January 31, 2017;

* * * * *

PART 403—GREAT LAKES PILOTAGE UNIFORM ACCOUNTING SYSTEM

■ 6. The authority citation for part 403 continues to read as follows:

Authority: 46 U.S.C. 2103, 2104(a), 9303, 9304; Department of Homeland Security Delegation No. 0170.1(II)(92.a), (92.f).

■ 7. Revise § 403.300(c) to read as follows:

§ 403.300 Financial reporting requirements.

* * * * *

(c) By January 24 of each year, each association must obtain an unqualified audit report for the preceding year that is audited and prepared in accordance with generally accepted accounting principles by an independent certified public accountant. Each association must electronically submit that report with any associated settlement statements and all accompanying notes to the Director by January 31.

PART 404—GREAT LAKES PILOTAGE RATEMAKING

■ 8. The authority citation for part 404 continues to read as follows:

Authority: 46 U.S.C. 2103, 2104(a), 9303, 9304; Department of Homeland Security Delegation No. 0170.1(II)(92.a), (92.f).

■ 9. Revise § 404.103 as follows:

■ a. In paragraph (a), following the words ''dividing each area's'' remove the word ''peak'' and add, in its place, the word ''seasonal''; and

■ b. Revise paragraph (b) to read as follows:

§ 404.103 Ratemaking step 3: Determine number of pilots needed.

* * * * *

(b) Pilotage demand and the base seasonal work standard are based on available and reliable data, as so deemed by the Director, for a multi-year base period. The multi-year period is the 10 most recent full shipping seasons, and the data source is a system approved under 46 CFR 403.300. Where such data are not available or reliable, the Director also may use data, from additional past full shipping seasons or other sources, that the Director determines to be available and reliable.

* * * * *

■ 10. Revise § 404.104 to read as follows:

§ 404.104 Ratemaking step 4: Determine target pilot compensation benchmark.

At least once every 10 years, the Director will set a base target pilot compensation benchmark using the most relevant available non-proprietary information. In years in which a base compensation benchmark is not set, target pilot compensation will be adjusted for inflation using the CPI for the Midwest region or a published predetermined amount. The Director determines each pilotage association's total target pilot compensation by multiplying individual target pilot compensation by the number of pilots projected under § 404.103(d) of this part.

§ 404.105 [Amended]

■ 11. In § 404.105, remove the words ''return on investment'' and add, in their place, the words ''working capital fund.''

* * * * *

■ 12. Revise § 404.107 to read as follows:

§ 404.107 Ratemaking step 7: Initially calculate base rates.

The Director initially calculates base hourly rates by dividing the projected needed revenue from § 404.106 of this part by averages of past hours worked in each district's designated and undesignated waters, using available and reliable data for a multi-year period set in accordance with § 404.103(b) of this part.

■ 13. Revise § 404.108 to read as follows:

§ 404.108 Ratemaking step 8: Calculate average weighting factors by Area.

The Director calculates the average weighting factor for each area by computing the 10-year rolling average of weighting factors applied in that area, beginning with the year 2014. If less than 10 years of data are available, the Director calculates the average weighting factor using data from each year beginning with 2014.

■ 14. Add § 404.109 as follows:

§ 404.109 Ratemaking step 9: Calculate revised base rates.

The Director calculates revised base rates for each area by dividing the initial base rate (from Step 7) by the average weighting factor (from Step 8) to produce a revised base rate for each area.

■ 15. Add § 404.110 as follows:

§ 404.110 Ratemaking step 10: Review and finalize rates.

The Director reviews the base pilotage rates calculated in § 404.109 of this part to ensure they meet the goal set in § 404.1(a) of this part, and either finalizes them or first makes necessary and reasonable adjustments to them based on requirements of Great Lakes pilotage agreements between the United States and Canada, or other supportable circumstances.

Dated: March 30, 2017.

Michael D. Emerson,

Director, Marine Transportation Systems, U.S. Coast Guard.

[FR Doc. 2017–06662 Filed 4–4–17; 8:45 am]

BILLING CODE 9110–04–P

SURFACE TRANSPORTATION BOARD

49 CFR Parts 1104, 1109, 1111, 1114, and 1130

[Docket No. EP 733]

Expediting Rate Cases

AGENCY: Surface Transportation Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: Pursuant to Section 11 of the Surface Transportation Board Reauthorization Act of 2015 (STB Reauthorization Act), the Surface Transportation Board (Board) is proposing changes to its rules pertaining to its rate case procedures to help improve and expedite the rate review process.

DATES: Comments are due by May 15, 2017. Reply comments are due June 14, 2017.

ADDRESSES: Comments and replies may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the ''E–FILING'' link on the Board's Web site, at ''*http://www.stb.gov.*'' Any person submitting a filing in the traditional

paper format should send an original and 10 copies to: Surface Transportation Board, Attn: Docket No. EP 733, 395 E Street SW., Washington, DC 20423–0001. Copies of written comments and replies will be available for viewing and self-copying at the Board's Public Docket Room, Room 131, and will be posted to the Board's Web site.

FOR FURTHER INFORMATION CONTACT: Sarah Fancher, (202) 245–0355. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Section 11 of the STB Reauthorization Act, Public Law 114–110, 129 Stat. 2228 (2015) directs the Board to ''initiate a proceeding to assess procedures that are available to parties in litigation before courts to expedite such litigation and the potential application of any such procedures to rate cases.'' In addition, Section 11 requires the Board to comply with a new timeline in Stand-Alone Cost (SAC) cases.

In advance of initiating this proceeding, Board staff held informal meetings with stakeholders[1] to explore and discuss ideas on: (1) How procedures to expedite court litigation could be applied to rate cases, and (2) additional ways to move SAC cases forward more expeditiously. The Board issued an Advance Notice of Proposed Rulemaking (*ANPRM*) on June 15, 2016, seeking formal comment on specific ideas raised in the informal meetings as well as comments on any other relevant matters.

The Board received comments on the *ANPRM* from the following organizations: The Rail Customer Coalition; Samuel J. Nasca on behalf of SMART/Transportation Division, New York State Legislative Board (SMART/TD–NY); the Association of American Railroads (AAR); the Western Coal Traffic League, American Public Power Association, Edison Electric Institute, National Association of Regulatory Utility Commissioners, National Rural Electric Cooperative Association, and Freight Rail Customer Alliance (collectively, Coal Shippers/NARUC); CSX Transportation, Inc. (CSXT); the American Chemistry Council, the Dow Chemical Company, and M&G Polymers USA, LLC (Joint Carload Shippers); Norfolk Southern Railway Company (NSR); Union Pacific Railroad Company (UP); and Oliver Wyman.

Based on the comments, the Board is now proposing specific changes intended to help improve the rate review process and expedite rate cases.[2] In Section I, the Board addresses the comments and how they have formed the basis of the rules proposed here. In Section II, the Board explains the newly proposed rules. Note, these proposed rules are not intended to be a comprehensive response to the comments received in this docket, nor are they the final action the Board plans to take to improve the Board's rate review processes for all shippers. The Board will continue to evaluate the comments received and review its regulations generally, and may propose additional revisions at a later date.

I. Comments in Response to the ANPRM

Pre-Complaint Period. In the *ANPRM,* the Board noted that several stakeholders suggested that the Board could require a complainant, before filing its SAC complaint, to file a notice similar to that required in the context of major and significant mergers before the Board. *See* 49 CFR 1180.4(b). One of the purposes of the pre-complaint filing would be to provide the railroad with time to start preparing for litigation, including gathering documents and data necessary for the discovery stage, which in turn could benefit both parties by accelerating the discovery process. *ANPRM,* slip op. at 3. Accordingly, the Board sought comments on the merits of adopting a pre-filing requirement in SAC cases, and, if a pre-filing notice were adopted, the information that should be contained in that notice and the appropriate time period for filing the notice (*e.g.,* 30 or 60 days prior to filing a complaint). The Board also sought comments on the idea of offering or requiring mediation during a pre-complaint period.

Several railroad and shipper interests generally support the requirement of a pre-filing notice. (CSXT Comments 7, AAR Comments 6, Joint Carload Shippers Comments 4–5.) CSXT and Joint Carload Shippers comment that the filing would provide early notice of impending discovery obligations. (CSXT Comments 7–10, Joint Carload Shippers Comments 4–5.) CSXT also comments that a pre-filing notice could allow the parties to agree on a protective order that could be in place at the outset of the case. (CSXT Comments 8.)

Conversely, NSR and Coal Shippers/NARUC comment that a pre-filing notice in and of itself likely would not do much to expedite rate cases. (NSR Comments 35, Coal Shippers/NARUC Comments 33.) NSR argues that, even with such a notice, the railroad can only begin to gather the necessary documents and data once the shipper has filed its case, indicating whether it is a SAC, Simplified-SAC, or Three-Benchmark case, and the shipper has served its discovery requests, informing the railroad of the time frame for discovery materials and identified the segments of the railroad for which discovery is sought. (NSR Comments 35.) Coal Shippers/NARUC comment that once a shipper has decided to file a SAC case, it is ready to do so immediately, and because of the negotiations between the shipper and rail carriers where a potential SAC case is in play, many rail carriers start gathering the necessary SAC information without any pre-filing requirement. (Coal Shippers/NARUC Comments 33–34.) Coal Shippers/NARUC comment that the only potential benefit of a pre-filing requirement is one that includes a response deadline—*e.g.,* requiring a rail carrier to produce specified SAC information no later than 30 days after the complaint is filed. Coal Shippers/NARUC suggest that the Board consider a procedure where the pre-filing requirement is at the complainant shipper's option, and, if the shipper so elects, the respondent rail carrier is required to provide information at a specified date after the complaint is filed. (Coal Shippers/NARUC Comments 34.)

Regarding whether mediation should be conducted during a pre-complaint period, CSXT and Joint Carload Shippers comment that doing so would be beneficial in that it would allow parties to focus exclusively on litigation after the complaint has been filed. (CSXT Comments 9–10, Joint Carload Shippers Comments 4–5.) AAR comments that mediation at the outset of the process could allow the parties to avoid litigation altogether, though it would not actually expedite the rate case itself once it is filed. (AAR

[1] Board staff met with individuals either associated with and/or speaking on behalf of the following organizations: American Chemistry Council; Archer Daniels Midland Company; CSX Transportation, Inc.; Economists Incorporated; Dr. Gerald Faulhaber; FTI Consulting, Inc.; GKG Law, P.C.; Growth Energy; Highroad Consulting; L.E. Peabody; LaRoe, Winn, Moerman & Donovan; consultant Michael A. Nelson; Norfolk Southern Railway Company; Olin Corporation; POET Ethanol Products; Sidley Austin LLP; Slover & Loftus LLP; Steptoe & Johnson LLP; The Chlorine Institute; The Fertilizer Institute; The National Industrial Transportation League; and Thompson Hine LLP. We note that some participants expressed individual views, not on behalf of the organization(s) with which they are associated.

[2] Although many of the proposals pertain specifically to SAC cases—the Board's methodology for large rate cases—some of the proposals would also benefit cases filed under the Board's other methodologies. In those instances we specify that a particular proposal would also apply in, for example, Simplified-SAC or Three-Benchmark cases (collectively, simplified standards). *See Simplified Standards for Rail Rate Cases,* EP 646 (Sub-No. 1) (STB served Sept. 5, 2007).

Comments 6.) Coal Shippers/NARUC comment that no coal rate cases have settled because of the Board's mediation process, and that mandatory mediation has driven up the costs associated with pursing relief from the Board. (Coal Shippers/NARUC Comments 40.) Coal Shippers/NARUC suggest eliminating mandatory mediation of SAC disputes entirely, though leaving the option open for the parties if they jointly agree to engage in mediation at any time during the SAC case process. (Coal Shippers/NARUC Comments 40.)

With respect to the timing of the pre-filing notice, both CSXT and Joint Carload Shippers argue that 60 days prior to the filing of a SAC complaint probably would be optimal, and Joint Carload Shippers assert that this would afford sufficient time for scheduling and conducting mediation. (CSXT Comments 10, Joint Carload Shippers Comments 5.) Although Coal Shippers/NARUC oppose the requirement of a pre-filing notice, they argue that, if one is mandated by the Board, it should be filed no later than 30 days prior to the date the complaint is filed. (Coal Shippers/NARUC Comments 38–39.)

Concerning the content of the pre-filing notice, parties suggest that the pre-filing notice could include: (1) The rate that will be challenged; (2) the origin-destination pair(s) being challenged; (3) the commodities at issue; (4) the states the shipper expects its SARR may traverse; and (5) other pertinent information. (*See* CSXT Comments 11, Joint Carload Shippers Comments 5, AAR Comments 6; Coal Shippers/NARUC Comments 38–39 [3].)

The Board is persuaded that establishing a pre-complaint period, during which parties engage in mediation without the burden of simultaneous litigation and discovery, outweighs any burden the pre-complaint period may add. The Board believes that such a requirement would help the case proceed more efficiently and quickly once the complaint is filed because the pre-filing notice would put the parties on notice as to what they likely will need to produce in discovery. When the Board first codified mandatory mediation in SAC cases in *Procedures to Expedite Resolution of Rail Rate Challenges to be Considered Under the Stand-Alone Cost Methodology,* EP 638, slip op. at 2–3, 13–14 (STB served Apr. 3, 2003), the Board believed that the most appropriate time to mediate was after the complaint was filed. Now, with the benefit of more than a decade of experience with mediation, the Board is convinced that pre-complaint mediation would be more beneficial to SAC litigants.[4]

With respect to the timing of the pre-filing notice, the Board believes that a longer period of 70 days is appropriate to accommodate the full schedule of mediation so that parties will have the time to focus on resolutions before litigation begins. The Board welcomes comment on this proposed longer period. With respect to the contents of the notice, the Board believes that the most useful elements are: (1) The rate to be challenged; (2) the origin/destination pair(s) to be challenged; and (3) the commodities at issue. The Board also sees the benefit of having a protective order in place as early as possible, and thus requiring the shipper to include with its pre-filing notice a motion for protective order. Accordingly, as discussed in Section II, the Board proposes to require a complainant to submit a pre-filing notice and motion for protective order 70 days before filing a SAC complaint.

The Board recognizes Coal Shippers/NARUC's concerns that, once shippers have considered filing a SAC case, they may wish to litigate immediately, but the Board believes that the benefits of engaging in early mediation, establishing a protective order, and providing early notice of impending discovery obligations outweigh that delay. The Board does not agree with the Coal Shippers/NARUC's suggestion that the Board eliminate mandatory mediation of SAC disputes altogether, given the potential benefit of mediation in SAC cases. Contrary to Coal Shippers/NARUC's claim, mandatory mediation did result in a settlement in a rate case involving coal. *See NRG Power Marketing LLC* v. *CSX Transp., Inc.,* NOR 42122, slip op. at 1 (STB served July 8, 2010.)

Discovery. The Board also sought comment on several ways in which the Board could change its discovery procedures to help improve and expedite rate cases.

a. *Service of initial discovery requests.* The Board sought comment on requiring parties to either serve standard discovery requests or disclosures of information with the filing of their complaints and answers, as is done in some federal courts. *ANPRM,* slip op. at 3–4. NSR strongly supports the concept of standardizing initial discovery requests for both the complainant and the defendant and further supports the concept of requiring these initial discovery requests to be served concurrently with the complaint or answer, as applicable. (NSR Comments 36.) Joint Carload Shippers also support standardized disclosures, although they state that there is not much merit to standardized discovery requests, as the time savings is not in the standardization of discovery requests, but in requiring automatic and earlier production of responsive information. (Joint Carload Shippers Comments 6–7.) Joint Carload Shippers focus on the potential time savings from the standardization of traffic and revenue data. (Joint Carload Shippers Comments 7–9.)

CSXT does not take a position on standardizing discovery requests, but cautions that discovery requests, while relatively consistent from case to case, evolve over time. (CSXT Comments 23–24.) Coal Shippers/NARUC do not support standardized discovery requests, and comment that SAC discovery questions have evolved over time, and should continue to do so to meet shippers' discovery needs and to address the technological changes in how rail carriers collect, store, and maintain data. (Coal Shippers/NARUC Comments 43.) Coal Shippers/NARUC also do not support the use of standardized disclosures. (Coal Shippers/NARUC Comments 43.) They note that while the specific categories of information that shippers need—what they term ''Core SAC Data''—generally remains the same from case to case, the exact set of responsive information coal shippers need can change over time based on case-specific needs and changes in how rail carriers maintain and update their internal databases. (Coal Shippers/NARUC 43.) Thus, instead of standardized disclosures, Coal Shippers/NARUC suggest the following process: (1) Require the complainant shipper to file its initial discovery requests along with its complaint; (2) require Board staff to hold a technical discovery conference with the parties no later than 15 days after the initial discovery requests are filed, at which the complainant shipper will identify those questions seeking Core SAC Data, and discuss logistical issues about producing this data; and (3) require that, following the conference, the Board issue an order directing the defendant rail carrier to respond to the complainant shipper's specific requests seeking Core SAC Data no later than 60 days after the initial discovery requests

[3] Again, Coal Shippers/NARUC oppose the requirement of a pre-filing notice, but offer suggestions in the event that the Board were to require a pre-filing notice.

[4] The existence of the pre-filing requirement would not affect the statutory requirement that a complaint must be filed within two years after the claim accrues.

were filed. (Coal Shippers/NARUC Comments 45.) Coal Shippers/NARUC further suggest that the Board should require submission of discovery by rail carriers no later than 20 days after the shipper's complaint is filed. Coal Shippers/NARUC also propose that the Board allow rail carrier requests for staff conferences regarding discovery requests at any time after 40 days have elapsed since filing of a complaint. (Coal Shippers/NARUC Comments 47.)

The Board is persuaded that the value of allowing discovery requests and information disclosed in SAC cases to evolve outweighs the potential time saved by standardizing discovery requests or standardized disclosures. Accordingly, the Board will not propose to change the SAC case regulations in this manner. However, the Board agrees with the general consensus among commenters that beginning discovery as soon as possible will help expedite SAC cases. Therefore, the Board proposes requiring a complainant to certify that it has served its initial discovery requests with its complaint and requiring a defendant to certify that it has served its initial discovery requests with its answer.

We do not see the need to adopt Coal Shippers/NARUC's proposed process involving a technical conference at which the shipper would identify the discovery requests seeking Core SAC Data in discovery served with the complaint at this time. The Board believes this should be evident from the discovery itself. However, as discussed further below, the Board encourages additional use of conferences between the parties and Board staff to promptly resolve any disputes that arise and parties could request a conference early in the discovery process if necessary in a particular case.

b. *Meet and confer requirement.* The Board sought comment on the merits of a requirement, similar to Federal Rule of Civil Procedure 37, that any party filing a motion to compel certify that it has attempted to confer with the opposing party first. *ANPRM,* slip op. at 5.

Railroad and shipper interests generally support such a meet and confer requirement. (CSXT Comments 28–29, Coal Shippers/NARUC Comments 51, NSR Comments 41–42, Joint Carload Shippers Comments 16.) Coal Shippers/NARUC suggest that any such rule also address what they claim is continuing confusion over the Board's procedural rule that requires the filing of motions to compel in certain instances no later than 10 days after an insufficient response is received. *See* 49 CFR 1114.31(a). Specifically, Coal Shippers/NARUC also suggest that the Board confirm that the 10-day rule does not apply to requests for document production. (Coal Shippers/NARUC Comments 51–52.) In addition, Coal Shippers/NARUC suggest that the 10-day rule be changed to 14 days for other covered discovery to allow a moving party sufficient time to adhere to any new ''confer first'' rule. (Coal Shippers/NARUC Comments 51–52.) Joint Carload Shippers comment that there must be an exception for situations where consultation is not practical due to time constraints. (Joint Carload Shippers Comments 16.) NSR suggests that, rather than imposing a meet-and-confer requirement, the Board should require Board staff to ''convene a conference with the parties to discuss'' a motion to compel, rather than making it optional, as is currently done in the existing regulations. (NSR Comments 41–42.)[5]

The Board agrees with the majority of comments that adding a meet-and-confer requirement would help to reduce the number of disputes that reach the Board and thus expedite rate cases. The Board acknowledges Joint Carload Shippers' concern that there are situations where consultation may be difficult due to time constraints, but does not believe that the best way of handling those instances is to create an exception to the rule. Instead, the Board proposes a requirement modeled on Federal Rule of Civil Procedure 37, which requires that the movant certify that it has in good faith met and conferred or attempted to meet and confer with the person or party failing to answer discovery to resolve the issue without Board intervention.

The Board is not convinced that it needs to extend its 10-day rule if it adopts a meet-and-confer requirement. The Board believes that 10 days is sufficient time to confer or attempt to confer with an unresponsive party, and extending that period any further would unnecessarily delay discovery.[6]

Additionally, the Board does not agree with NSR that there is a need to modify 49 CFR 1114.31(a)(3) to make a staff conference mandatory. Certain disputes may be resolved more efficiently by a decision issued by the Director of the Office of Proceedings under 49 CFR 1114.31(a)(4) without the need for a staff conference. However, the Board will continue to convene staff conferences when appropriate, and encourages any party that believes such a conference would aid in resolving a dispute to request the Board convene a staff conference at any point in the proceeding.

Evidentiary Submissions. The Board also sought comment on whether it should consider staggering the filing of public and highly confidential versions of the parties' pleadings to give parties more time to ensure that public versions of filings are appropriately redacted without delaying the case. *ANPRM,* slip op. at 7. Additionally, the Board suggested that it could limit final briefs to certain subjects on which the Board would like further argument rather than allowing generalized argument. *ANPRM,* slip op. at 6.

a. *Staggered filings and confidential designations.* Several comments from railroad and shipper interests support the idea of staggering public and highly confidential versions of the parties' pleadings. (CSXT Comments 39, Coal Shippers/NARUC Comments 61, NSR Comments 48, Joint Carload Shippers Comments 26.) Coal Shippers/NARUC propose three business days for the staggering of the filings. (Coal Shippers/NARUC Comments 61.) CSXT cautions, however, that the delay in filing the public versions would delay the ability of in-house personnel to begin analyzing the filings and suggests that parties identify the information in filings that can be shared with in-house personnel simultaneously with highly confidential submissions. (CSXT Comments 39.) CSXT argues that any delay in providing evidence to parties' in-house experts and personnel may require extending a case's procedural schedule. (CSXT Comments 40.) NSR notes that this proposal likely would do more to ensure proper redactions than to expedite rate cases. (NSR Comments 48.)

CSXT also recommends that the Board create a standard rule for identifying highly confidential and confidential materials in parties' pleadings. (CSXT Comments 40.) CSXT asserts that it and other parties have used the convention of double braces for

[5] NSR also suggests that the Board codify that ''a party seeking to compel discovery must show (1) that it needs the information to make its case, (2) that the information cannot be readily obtained through other means, and (3) that the request is not unduly burdensome.'' (NSR Comments 30 (citing *Procedures to Expedite,* EP 638, slip op. at 4 (STB served Apr. 3, 2003).) The Board does not believe that its current standard for ruling on motions to compel is flawed or that NSR's proposal would expedite the decision-making process.

[6] In addition, Coal Shippers/NARUC suggest that the Board confirm that the 10-day rule in 49 CFR 1114.31(a) does not apply to requests for document production. However, because this is a change to the regulations that would impact more than just rate reasonableness cases, the Board does not believe that it is appropriate to address Coal Shippers/NARUC's concern in this proceeding, which is limited specifically to procedures in rate cases. In any event, although Coal Shippers/NARUC claim that this regulation has created confusion in rate cases, it does not cite any examples.

highly confidential material (*e.g.,* {{highly confidential}}) and single braces for confidential material (*e.g.,* {confidential}), but others have designated material in a more haphazard way, which makes it difficult to identify materials that can be shared with in-house personnel. (CSXT Comments 40.)

The Board acknowledges CSXT's concern that delaying the submission of public filings delays the ability of in-house personnel to review and respond to the filings. However, the Board believes the appropriate remedy is to set a delay of three business days, as suggested by Coal Shippers/NARUC, rather than have parties identify the information in filings that can be shared with in-house personnel simultaneously with the highly confidential submission. The Board believes that the evolution of rate case practice makes this change appropriate now, even though the Board rejected such a proposal in *Procedures to Expedite,* EP 638 (STB served June 6, 2003), *reconsideration denied* (STB served July 31, 2003). When the Board held in *Procedures to Expedite* that parties must file a public version of their submissions simultaneously with any highly confidential or confidential version they might also choose to file, the Board suggested that parties ''should propose procedural schedules that allow the time they will need to comply with the redaction requirements by the due dates for their filings with the Board.'' *Procedures to Expedite,* EP 638, slip op. at 5. Over a decade of rate case experience has demonstrated that this is not a practicable solution, and the Board is persuaded that staggered filings are appropriate. Therefore, as discussed below, the Board proposes allowing parties to submit public versions of their filings three business days after the submission of the highly confidential versions in all rate case proceedings.

The Board also agrees with CSXT's comment that standardizing the identification of public, confidential, and highly confidential material will reduce confusion. Therefore, in Section II, the Board proposes creating standard identifying markers that would be applied in all rate case proceedings. The Board also proposes standard markers for sensitive security information.[7]

b. *Limits on final briefs.* Coal Shippers/NARUC comment that, generally, limiting final briefs to specific issues of concern to the Board is a good way to make the briefs more useful to the Board and perhaps reduce the costs that the parties otherwise would incur in presenting a brief that addresses a much wider swath of case issues. (Coal Shippers/NARUC Comments 60–61.) Joint Carload Shippers support limiting the final briefs to specific subjects identified by the Board based upon its review of the evidence, or, as an alternative, staggering the briefing schedule, to allow the complainant, which has the burden of proof, the opportunity to respond to the defendant's surrebuttal arguments. (Joint Carload Shippers Comments 25.) NSR comments that while final briefs could be limited to subjects on which the Board would like further information, the Board would benefit from building in some flexibility for the parties to highlight issues they believe are important. (NSR Comments 47.)

The Board believes that selection of the topics for final briefs could be beneficial, however, it would require a Board decision following the close of evidence. The Board is concerned that this additional step would curtail the already shortened period available to the Board for issuing a decision on the merits in SAC cases. More importantly, the Board believes that the better approach for encouraging parties to focus on the most important issues in SAC and Simplified-SAC cases is to limit the length of final briefs. The Board has on occasion, in individual cases, imposed page limits on final briefs. *See, e.g., Consumers Energy Co.* v. *CSX Transp., Inc.,* NOR 42142, slip op. at 1 (STB served June 3, 2016); *Total Petrochems. & Ref. USA, Inc.* v. *CSX Transp., Inc.,* NOR 42121, slip op. at 4 (STB served Sept. 26, 2013). Based on the Board's prior experience, the Board proposes to limit final briefs to 30 pages, inclusive of exhibits, in all SAC and Simplified-SAC cases. The Board believes that this is sufficient space for the parties to articulate their final concerns, but limited enough to prevent further argument on all issues and surrebuttal.

Interaction with Board Staff. The Board sought comment on the increased use of written questions and technical conferences in SAC cases, starting with an early technical conference to establish ground rules and issue-specific Board expectations. *ANPRM,* slip op. at 7. The Board also suggested that it could provide advance notice of the topics to be discussed in a technical conference to promote an efficient and productive conference. *ANPRM,* slip op. at 7. Finally, the Board suggested that it could appoint a liaison to the parties to answer questions about the process and to intervene informally (*e.g.,* hold status conferences) if it would help discovery or other matters move more smoothly. *ANPRM,* slip op. at 7.

Several railroads and shipper interests supported the idea of increased staff involvement. (AAR Comments 8; CSXT Comments 40–41; NSR Comments 12; Joint Carload Shippers Comments 26–28.) Coal Shippers/NARUC agree that increased staff involvement, as outlined by the Board in the *ANPRM,* would be very useful to the parties and should help advance the submission, and decision, of rate cases in an expeditious manner. (Coal Shippers/NARUC Comments 62.) Joint Carload Shippers argue that greater interaction through technical conferences and written interrogatories could have several benefits associated with many of the other subjects in the *ANPRM.*[8] CSXT supports the idea of a liaison to the parties as a way to resolve disputes short of formal motions to compel. (CSXT Comments 40–41.)

The Board is convinced that increased staff involvement at all stages of a rate case, both through technical conferences/written questions and a Board-appointed liaison to the parties, would reduce the number of disputes between the parties and thus expedite the rate case process.[9] Thus, the Board proposes to appoint a liaison to the parties within 10 business days of the submission of the pre-filing notice in SAC cases, and within 10 business days of the filing of the complaint in Simplified-SAC and Three-Benchmark cases. The liaison would not be recused from handling substantive elements of the case. In addition, the Board intends to make greater use of written questions from staff and technical conferences with the parties at every stage of the case. When a technical conference is requested by a party or parties or convened by the Board, the Board intends to provide advance notice of the topics to be discussed to promote an efficient and productive conference. The Board believes that increased communication between the parties and the Board would expedite rate cases by reducing the number of disputes between the parties and thus the

[7] Protective orders in SAC cases generally distinguish between ''confidential,'' ''highly confidential,'' and ''sensitive security information.''

[8] For example, Joint Carload Shippers note that a pre-trial conference with Board staff would serve many of the same functions of Federal Rule of Civil Procedure 16, and it supports greater use of technical conferences during Board review of the parties' evidence. (Joint Carload Shippers Comments 26–28.)

[9] In the *ANPRM,* the Board sought comment on the increased use of written questions and technical conferences in SAC cases in particular; however, the Board believes that increased staff involvement would help to improve and expedite rate cases under other methodologies as well.

number of issues that must be decided by the Board.

II. The Proposed Rules

The proposed rules contain changes to the Board's regulations at 49 CFR parts 1104, 1109, 1111, 1114, and 1130, which are set out below. In proposing these changes, the Board has considered the suggestions from commenters on the *ANPRM,* incorporated those suggestions where appropriate, and modified them where necessary to propose changes to the regulations that the Board believes would best help to improve and expedite the rate case process.

Pre-Complaint Period. The proposed rules include changes creating and detailing a pre-complaint period in SAC cases intended to provide parties with an opportunity to mediate the dispute and prepare for litigation.

1. *Pre-filing Notice.* First, the Board proposes to create a pre-complaint period at newly redesignated 49 CFR 1111.1 by requiring a SAC complainant to submit a pre-filing notice at least 70 days prior to filing its complaint. The Board proposes that the pre-filing notice contain the rate and origin/destination pair(s) to be challenged, the commodities at issue, and a motion for protective order pursuant to 49 CFR 1104.14(c). This requirement would accomplish several goals. It would put the defendant on notice of the impending complaint such that it can begin to prepare for discovery and litigation. In addition, the early submission of a motion for protective order would allow a protective order to be in place at the outset of a case, thus expediting discovery production and disclosures. Finally, it would allow the parties to engage in mediation pre-complaint, as described below.

2. *Mandatory Mediation.* Second, the Board proposes to revise 49 CFR 1109.4 to move mandatory mediation in SAC cases to the pre-complaint period. This change to the regulations would not impose new requirements, but would require mediation to take place earlier to allow parties to focus on the mediation process without the distractions of litigation. The Board intends for mediation to be complete prior to the filing of the complaint; however, consistent with current procedures, the rules will allow for an extension of time via Board order.

3. *Appointment of a Board Liaison to the Parties.* Third, under 49 CFR 1111.1, the Board proposes in SAC cases to appoint a liaison to the parties within 10 business days of the complainant's submission of the pre-filing notice. The Board proposes to amend the newly redesignated 49 CFR 1111.10(a) to appoint a liaison within 10 business days of the filing of the complaint in cases using simplified standards. With this addition to the regulations, the Board intends to improve communication between the parties and the Board by providing the parties with a point of contact to whom they can address questions or disputes.

Discovery. The proposed rules include changes to the Board's discovery regulations intended to streamline discovery in rate cases.

1. *Initial Discovery Requests.* First, the Board proposes to add 49 CFR 1111.2(f) and amend 49 CFR 1114.21(d) & (f) to require a complainant in a SAC proceeding to certify that it has served its initial discovery requests simultaneously with its complaint. The Board also proposes to add 49 CFR 1111.5(f) and amend 49 CFR 1114.21(d) & (f) to require a defendant in a SAC proceeding to certify that it has served its initial discovery requests simultaneously with its answer. To address the filing of an amended or supplemental complaint, the Board proposes to amend the newly redesignated 49 CFR 1111.3(b) to require the complainant to certify that it has served on the defendant any initial discovery requests affected by the amended or supplemental complaint, if any. The Board proposes a corresponding requirement at 49 CFR 1111.5(f), in which a defendant responding to an amended or supplemental complaint must certify that it has served on the complainant any discovery requests affected by the amended or supplemental complaint, if any. With these changes, the Board intends to expedite discovery, and thus the rate case, by beginning discovery with the complaint. These changes would eliminate the current potential gap between the filing of the complaint and the beginning of discovery.

2. *Meet and Confer Requirement.* Second, the Board proposes to amend 49 CFR 1114.31(a) to include a certification that the party filing a motion to compel has in good faith conferred or attempted to confer with the party serving discovery to settle the dispute over those terms without Board intervention. The requirement would apply in SAC cases and cases filed under simplified standards. The Board believes that this requirement will encourage parties to resolve disputes without involving the Board, thereby expediting litigation of a rate case by reducing the number of necessary Board decisions.

Evidentiary Submissions. The proposed rules include changes to the Board's evidentiary regulations intended to improve and expedite the presentation of evidence in rate cases.

1. *Stagger the Submission of Public and Highly Confidential Versions of Filings.* First, in both SAC and simplified standards cases, the Board proposes to allow parties to submit highly confidential versions of the filings according to the procedural schedule in a particular case, and submit public versions of those filings within three business days after the filing of the highly confidential versions. With this change the Board intends to allow parties a reasonable amount of time to ensure confidentiality after submitting the highly confidential version of each filing.[10]

2. *Standard Convention for Identifying Confidential, Highly Confidential, and Sensitive Security Information.* Second, the Board proposes to revise 49 CFR 1104.14 to create standard identifying markers set forth in protective orders for the submission of confidential, highly confidential, and sensitive security information in rate cases. The Board proposes that all confidential information be contained in single braces, *i.e.,* {X}, all highly confidential information be contained in double braces, *i.e.,* {{Y}}, and all sensitive security information to be contained in triple braces, *i.e.,* {{{Z}}}. This change would eliminate any confusion caused by parties using different methods of identification and would apply in both SAC and simplified standards cases.

3. *Limits on Final Briefs.* Third, the Board proposes to limit the length of final briefs to 30 pages, inclusive of exhibits. With this change the Board intends to have the parties focus on the most important issues, and eliminate additional time otherwise used by the Board selecting certain issues or issuing decisions to limit the length of final briefs.

Technical Modifications. In addition, the Board proposes two modifications in the existing regulations. Specifically, the Board proposes to amend the newly redesignated 49 CFR 1111.11(b) to apply the requirement that the parties confer to SAC complaints in addition to simplified standards complaints. The Board also proposes to amend 49 CFR 1130.1 to include the correct reference to the newly redesignated 49 CFR 1111.2(a).

[10] In the Board's experience, parties to rate cases typically do not submit confidential versions of their filings in addition to the highly confidential and public versions. It is the Board's understanding that parties would continue to do so, and properly identify all confidential, highly confidential, and sensitive security information in the first filing according to the convention described below.

The Board seeks comments from all interested persons on these proposed rules. Importantly, the Board encourages interested persons to propose and discuss potential modifications or alternatives to the proposed rule. The Board will consider all recommended proposals in an effort to establish the most useful changes to improve and expedite the rate review process.

Regulatory Flexibility Act. The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, generally requires a description and analysis of new rules that would have a significant economic impact on a substantial number of small entities. In drafting a rule, an agency is required to: (1) Assess the effect that its regulation will have on small entities; (2) analyze effective alternatives that may minimize a regulation's impact; and (3) make the analysis available for public comment. Sections 601–604. In its notice of proposed rulemaking, the agency must either include an initial regulatory flexibility analysis, section 603(a), or certify that the proposed rule would not have a ''significant impact on a substantial number of small entities.'' Section 605(b). The impact must be a direct impact on small entities ''whose conduct is circumscribed or mandated'' by the proposed rule. *White Eagle Coop.* v. *Conner,* 553 F.3d 467, 480 (7th Cir. 2009).

The Board's proposed changes to its regulations here are intended to improve and expedite its rate case procedures and do not mandate or circumscribe the conduct of small entities. Effective June 30, 2016, for the purpose of RFA analysis for rail carriers subject to our jurisdiction, the Board defines a ''small business'' as only including those rail carriers classified as Class III rail carriers under 49 CFR 1201.1–1. *See Small Entity Size Standards Under the Regulatory Flexibility Act,* EP 719 (STB served June 30, 2016) (with Board Member Begeman dissenting).[11] The changes proposed here are largely procedural or codify existing practice, and would not have a significant economic impact on small entities. Furthermore, since the inception of the Board in 1996, only three of the 51 cases filed challenging the reasonableness of freight rail rates have involved a Class III rail carrier as a defendant. Those three cases involved a total of 13 Class III rail carriers. The Board estimates that there are approximately 656 Class III rail carriers. Therefore, the Board certifies under 5 U.S.C. 605(b) that these proposed rules, if promulgated, would not have a significant economic impact on a substantial number of small entities within the meaning of the RFA. The proposed rules, if promulgated, would amend the existing procedures for filing and litigating a rate case, as directed by Section 11 of the STB Reauthorization Act.

Paperwork Reduction Act. Pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3549, and Office of Management and Budget (OMB) regulations at 5 CFR 1320.8(d)(3), the Board seeks comments about each of the proposed collections regarding: (1) Whether the collection of information, as modified in the proposed rule and further described below, is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility; (2) the accuracy of the Board's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) 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, when appropriate. The Board estimates these new requirements would add a total annual hour burden of eight hours and no total annual ''non-hour burden'' cost under the PRA. Information pertinent to these issues is included in the Appendix. This proposed rule will be submitted to OMB for review as required under 44 U.S.C. 3507(d) and 5 CFR 1320.11. Comments received by the Board regarding the information collection will also be forwarded to OMB for its review when the final rule is published.

It is ordered:

1. Comments are due by May 15, 2017. Reply comments are due by June 14, 2017.

2. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration.

3. Notice of this decision will be published in the **Federal Register**.

4. This decision is effective on its service date.

List of Subjects

49 CFR Part 1104

Administrative practice and procedure.

49 CFR Part 1109

Administrative practice and procedure, Maritime carriers, Motor carriers, Railroads.

49 CFR Part 1111

Administrative practice and procedure, Investigations.

49 CFR Part 1114

Administrative practice and procedure.

49 CFR Part 1130

Administrative practice and procedure.

Decided: March 30, 2017.

By the Board, Board Members Begeman, Elliott, and Miller.

Raina S. Contee,

Clearance Clerk.

For the reasons set forth in the preamble, the Surface Transportation Board proposes to amend title 49, chapter X, parts 1104, 1109, 1111, 1114, and 1130 of the Code of Federal Regulations as follows:

PART 1104—FILING WITH THE BOARD-COPIES-VERIFICATION-SERVICE-PLEADINGS, GENERALLY

■ 1. The authority citation for part 1104 is revised to read as follows:

Authority: 5.U.S.C. 553 and 559; 18 U.S.C. 1621; and 49 U.S.C. 1321.

■ 2. In § 1104.14, add paragraph (c) to read as follows:

§ 1104.14 Protective orders to maintain confidentiality.

* * * * *

(c) *Requests for protective orders in stand-alone cost and simplified standards cases.* A motion for protective order in stand-alone cost and simplified standards cases shall specify that evidentiary submissions will designate confidential material within single braces (*i.e.,* {X}), highly confidential material within double braces (*i.e.,* {{Y}}), and sensitive security information within triple braces (*i.e.,* {{{Z}}}). In stand-alone cost cases, the motion for protective order shall be filed together with the notice pursuant to 49 CFR 1111.1.

PART 1109—USE OF MEDIATION IN BOARD PROCEEDINGS

■ 3. The authority citation for part 1109 is revised to read as follows:

[11] Class III carriers have annual operating revenues of $20 million or less in 1991 dollars, or $36,633,120 or less when adjusted for inflation using 2015 data. Class II rail carriers have annual operating revenues of less than $250 million but in excess of $20 million in 1991 dollars, or $457,913,998 and $36,633,120 respectively, when adjusted for inflation using 2015 data. The Board calculates the revenue deflator factor annually and publishes the railroad revenue thresholds on its Web site. 49 CFR 1201.1–1.

Authority: 49 U.S.C. 1321(a) and 5 U.S.C. 571 *et seq.*

■ 4. In § 1109.4, revise paragraphs (a), (b), and (g) to read as follows:

§ 1109.4 Mandatory mediation in rate cases to be considered under the stand-alone cost methodology.

(a) *Mandatory use of mediation.* A shipper seeking rate relief from a railroad or railroads in a case involving the stand-alone cost methodology must engage in non-binding mediation of its dispute with the railroad upon submitting a pre-filing notice under 49 CFR part 1111.

(b) *Assignment of mediators.* Within 10 business days after the shipper submits its pre-filing notice, the Board will assign one or more mediators to the case. Within 5 business days of the assignment to mediate, the mediator(s) shall contact the parties to discuss ground rules and the time and location of any meeting.

* * * * *

(g) *Procedural schedule.* Absent a specific order from the Board granting an extension, the mediation will not affect the procedural schedule in stand-alone cost rate cases set forth at 49 CFR 1111.9(a).

PART 1111—COMPLAINT AND INVESTIGATION PROCEDURES

■ 5. The authority citation for part 1111 continues to read as follows:

Authority: 49 U.S.C. 10704, 11701, and 1321.

§§ 1111.1 through 1111.10 [Redesignated as §§ 1111.2 through 1111.11]

■ 6. Redesignate §§ 1111.1 through 1111.10 as §§ 1111.2 through 1111.11, respectively.:

■ 7. Add new § 1111.1 to read as follows:

§ 1111.1 Pre-filing procedures in stand-alone cost cases.

(a) *General.* At least 70 days prior to the proposed filing of a complaint challenging the reasonableness of a rail rate to be examined under constrained market pricing, complainant shall file a notice with the Board. The notice shall:

(i) Identify the rate to be challenged;

(ii) Identify the origin/destination pair(s) to be challenged;

(iii) Identify the affected commodities; and

(iv) Include a motion for protective order as set forth at 49 CFR 1104.14(c).

(b) *Liaison.* Within 10 days of the filing of the pre-filing notice, the Board shall appoint a liaison to the parties.

■ 8. Add paragraph (f) to newly redesignated 1111.2 to read as follows:

§ 1111.2 Content of formal complaints; joinder.

* * * * *

(f) *Discovery in stand-alone cost cases.* Upon filing its complaint, the complainant shall certify that it has served its initial discovery requests on the defendant.

■ 9. Revise newly redesignated § 1111.3 to read as follows:

§ 1111.3 Amended and supplemental complaints.

(a) *Generally.* An amended or supplemental complaint may be tendered for filing by a complainant against a defendant or defendants named in the original complaint, stating a cause of action alleged to have accrued within the statutory period immediately preceding the date of such tender, in favor of complainant and against the defendant or defendants. The time limits for responding to an amended or supplemental complaint are computed pursuant to §§ 1111.5 and 1111.6 of this part, as if the amended or supplemental complaint was an original complaint.

(b) *Stand-alone cost.* If a complainant tenders an amended or supplemental complaint in a stand-alone cost case, the complainant shall certify that it has served on the defendant those initial discovery requests affected by the amended or supplemental complaint, if any.

(c) *Simplified standards.* A complaint filed under the simplified standards may be amended once before the filing of opening evidence to opt for a different rate reasonableness methodology, among Three-Benchmark, Simplified-SAC, or Full-SAC. If so amended, the procedural schedule begins again under the new methodology as set forth at §§ 1111.9 and 1111.10. However, only one mediation period per complaint shall be required.

■ 10. Add paragraph (f) to newly redesignated 1111.5 to read as follows:

§ 1111.5 Answers and cross complaints.

* * * * *

(f) *Discovery in stand-alone cost cases.* Upon filing its answer, the defendant shall certify that it has served its initial discovery requests on the complainant. If the complainant tenders an amended or supplemental complaint to which the defendant must reply, upon filing the answer to the amended or supplemental complaint, the defendant shall certify that it has served on the complainant those initial discovery requests affected by the amended or supplemental complaint, if any.

■ 11. Revise newly redesignated § 1111.10(a) to read as follows:

§ 1111.10 Procedural schedule in cases using simplified standards.

(a) * * *

(1) In cases relying upon the Simplified-SAC methodology:

* * * * *

In addition, the Board will appoint a liaison within 10 business days of the filing of the complaint.

(2) In cases relying upon the Three-Benchmark methodology:

* * * * *

In addition, the Board will appoint a liaison within 10 business days of the filing of the complaint.

(b) *Staggered filings; final briefs.* (1) The parties may submit highly confidential versions of filings on the dates identified in the procedural schedule, and submit public versions of those filings within three business days thereafter.

(2) In cases relying upon the Simplified-SAC methodology, final briefs are limited to 30 pages, inclusive of exhibits.

■ 12. Amend § 1111.9 as follows:

■ a. Revise newly redesignated paragraph (a).

■ b. Further redesignate the newly redesignated paragraph (b) as paragraph (c), and revise newly redesignated paragraph (c).

■ c. Add new paragraph (b).

The additions and revisions read as follows:

§ 1111.9 Procedural schedule in stand-alone cost cases.

(a) *Procedural schedule.* Absent a specific order by the Board, the following general procedural schedule will apply in stand-alone cost cases after the pre-complaint period initiated by the pre-filing notice:

Day 0—Complaint filed, discovery period begins.

Day 7 or before—Conference of the parties convened pursuant to § 1111.11(b).

Day 20—Defendant's answer to complaint due.

* * * * *

(b) *Staggered filings; final briefs.* (1) The parties may submit highly confidential versions of filings on the dates identified in the procedural schedule, and submit public versions of those filings within three business days thereafter.

(2) Final briefs are limited to 30 pages, inclusive of exhibits.

* * * * *

■ 13. Amend § 1111.10 as follows:

■ a. Further redesignate the newly redesignated paragraphs (b), (c), and (d) as (c), (d) and (e) respectively.

■ b. Add new paragraph (b) to read as follows:

(b) *Staggered filings; final briefs.* (1) The parties may submit highly confidential versions of filings on the dates identified in the procedural schedule, and submit public versions of those filings within three business days thereafter.

(2) In cases relying upon the Simplified-SAC methodology, final briefs are limited to 30 pages, inclusive of exhibits.

■ 14. Revise newly redesignated § 1111.11(b) to read as follows:

§ 1111.11 Meeting to discuss procedural matters.

* * * * *

(b) *Stand-alone cost or simplified standards complaints.* In complaints challenging the reasonableness of a rail rate based on stand-alone cost or the simplified standards, the parties shall meet, or discuss by telephone or through email, discovery and procedural matters within 7 days after the complaint is filed in stand-alone cost cases, and 7 days after the mediation period ends in simplified standards cases. The parties should inform the Board as soon as possible thereafter whether there are unresolved disputes that require Board intervention and, if so, the nature of such disputes.

PART 1114—EVIDENCE; DISCOVERY

■ 15. The authority citation for part 1114 is revised to read as follows:

Authority: 5 U.S.C. 559; 49 U.S.C. 1321.

■ 16. Amend § 1114.21 as follows:

■ a. Revise paragraph (d).

■ b. Revise the first sentence of paragraph (f).

The revisions read as follows:

§ 1114.21 Applicability; general provisions.

* * * * *

(d) *Sequence and timing of discovery.* Unless the Board upon motion, and subject to the requirements at 49 CFR 1111.2(f) and 1111.5(f) in stand-alone cost cases, for the convenience of parties and witnesses and in the interest of justice, orders otherwise, methods of discovery may be used in any sequence and the fact that a party is conducting discovery, whether by deposition or otherwise, should not operate to delay any party's discovery.

* * * * *

(f) *Service of discovery materials.* Unless otherwise ordered by the Board, and subject to the requirements at 49 CFR 1111.2(f) and 1111.5(f) in stand-alone cost cases, depositions, interrogatories, requests for documents, requests for admissions, and answers and responses thereto, shall be served on other counsel and parties, but shall not be filed with the Board. * * *

■ 17. In § 1114.31(a) revise paragraph (a) introductory text to read as follows:

§ 1114.31 Failure to respond to discovery.

(a) *Failure to answer.* If a deponent fails to answer or gives an evasive answer or incomplete answer to a question propounded under § 1114.24(a), or a party fails to answer or gives evasive or incomplete answers to written interrogatories served pursuant to § 1114.26(a), the party seeking discovery may apply for an order compelling an answer by motion filed with the Board and served on all parties and deponents. Such motion to compel an answer must be filed with the Board and served on all parties and deponents. In stand-alone cost and simplified standards cases, such motion to compel an answer must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to answer discovery to obtain it without Board intervention. Such motion to compel an answer must be filed with the Board within 10 days after the failure to obtain a responsive answer upon deposition, or within 10 days after expiration of the period allowed for submission of answers to interrogatories. On matters relating to a deposition on oral examination, the proponent of the question may complete or adjourn the examination before he applies for an order.

* * * * *

PART 1130—INFORMAL COMPLAINTS

■ 18. The authority citation for Part 1130 is revised to read as follows:

Authority: 49 U.S.C. 1321, 13301(f), 14709.

■ 19. In § 1130.1, revise paragraph (a) to read as follows:

§ 1130.1 When no damages sought.

(a) *Form and content; copies.* Informal complaint may be by letter or other writing and will be serially numbered and filed. The complaint must contain the essential elements of a formal complaint as specified at 49 CFR 1111.2 and may embrace supporting papers. The original and one copy must be filed with the Board.

* * * * *

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

Appendix

Information Collection

Title: Complaints under 49 CFR 1111.

OMB Control Number: 2140–0029.

Form Number: None.

Type of Review: Revision of a currently approved collection.[12]

Summary: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521 (PRA), the Surface Transportation Board (Board) gives notice that it is requesting from the Office of Management and Budget (OMB) approval for the revision of the currently approved information collection, Complaints under 49 CFR part 1111, OMB Control No. 2140–0029, as further described below. The requested revision to the currently approved collection is necessitated by this Notice of Proposed Rulemaking, which amends certain information collected by the Board in stand-alone cost (SAC) rate cases. All other information collected by the Board in the currently approved collection is without change from its approval.

Respondents: Affected shippers, railroads, and communities that seek redress for alleged violations related to unreasonable rates, unreasonable practices, service issues, and other statutory claims.

Number of Respondents: Four.

Frequency of Response: On occasion. In recent years, respondents have filed approximately four complaints of this type per year with the Board.

Total Burden Hours (annually including all respondents): 1,876 (estimated hours per complaint (469) × total number of complaints (4)).

Total Annual ''Non-Hour Burden'' Cost: $5,848 (estimated non-hour burden cost per complaint ($1,462) × total number of complaints (4)).

Needs and Uses: Under the Board's regulations, persons may file complaints before the Board pursuant to 49 CFR part 1111 seeking redress for alleged violations of provisions of the Interstate Commerce Act, Public Law 104–88, 109 Stat. 803 (1995). In the last few years, the most significant complaints filed at the Board allege that railroads are charging unreasonable rates or that they are engaging in unreasonable practices. *See, e.g.,* 49 U.S.C. 10701, 10704, and 11701. The collection by the Board of these complaints, and the agency's action in conducting proceedings and ruling on the complaints, enables the Board to meet its statutory duty to regulate the rail industry.

[FR Doc. 2017–06718 Filed 4–4–17; 8:45 am]

BILLING CODE 4915–01–P

[12] The Surface Transportation Board filed a 60-day notice of intent to seek extension of approval on November 29, 2016. *See* 81 FR 86,061.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2017–0017; 4500030113]

RIN 1018–BB45

Endangered and Threatened Wildlife and Plants; Threatened Species Status for Yellow Lance

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition to list a mussel species, the yellow lance (*Elliptio lanceolata*), as endangered or threatened under the Endangered Species Act of 1973, as amended (Act). After review of the best available scientific and commercial information, we find that listing the yellow lance is warranted, and accordingly we propose to list the yellow lance as a threatened species under the Act. The yellow lance is a freshwater mussel native to Maryland, Virginia, and North Carolina. If we finalize this rule as proposed, the final rule would add the yellow lance to the List of Endangered and Threatened Wildlife and extend the Act's protections to this species.

DATES: We will accept comments received or postmarked on or before June 5, 2017. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by May 22, 2017.

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

(1) *Electronically:* Go to the Federal eRulemaking Portal:

http://www.regulations.gov. In the Search box, enter FWS–R4–ES–2017–0017, which is the docket number for this rulemaking. Then, in the Search panel on the left side of the screen, under the Document Type heading, check the Proposed Rules box to locate this document. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R4–ES–2017–0017, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see *Public Comments,* below, for more information).

FOR FURTHER INFORMATION CONTACT: Pete Benjamin, Field Supervisor, U.S. Fish and Wildlife Service, Raleigh Ecological Services Field Office, 551F Pylon Drive, Raleigh, NC 27606; telephone 919–856–4520; or facsimile 919–856–4556. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Supporting Documents

A species status assessment (SSA) team prepared an SSA report for the yellow lance. The SSA team was composed of U.S. Fish and Wildlife Service biologists, in consultation with other species experts. The SSA report represents a compilation of the best scientific and commercial data available concerning the status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the yellow lance. The SSA report underwent independent peer review by scientists with expertise in mussel biology, habitat management, and stressors (factors negatively affecting the species) to the species. The SSA report and other materials relating to this proposal can be found on the Southeast Region Web site at *https://www.fws.gov/southeast/* and at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2017–0017.

Information Requested

Public Comments

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned governmental agencies, Native American tribes, the scientific community, industry, or any other interested parties concerning this proposed rule. We particularly seek comments concerning:

(1) The species' biology, range, and population trends, including:

(a) Biological or ecological requirements of this species, including habitat requirements for feeding, breeding, and sheltering;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for this species, its habitat, or both.

(2) Factors that may affect the continued existence of the species, which may include habitat modification or destruction, overutilization, disease, predation, the inadequacy of existing regulatory mechanisms, or other natural or manmade factors.

(3) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to this species and existing regulations that may be addressing those threats.

(4) Additional information concerning the historical and current status, range, distribution, and population size of this species, including the locations of any additional populations of the species.

(5) Information on activities which might warrant being exempted under section 4(d) of the ESA. The Service is considering proposing such measures before the final listing determination is published, and will evaluate ideas provided by the public in considering whether such exemptions are necessary and advisable for the conservation of the species.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Please note that submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*) directs that determinations as to whether any species is an endangered or a threatened species must be made ''solely on the basis of the best scientific and commercial data available.''

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov.*

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Raleigh Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Public Hearing

Section 4(b)(5) of the Act provides for one or more public hearings on this proposal, if requested. Requests must be received by the dates specified above in **DATES**. Such requests must be sent to the address shown in **FOR FURTHER INFORMATION CONTACT**. We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings, as well as how to obtain reasonable accommodations, in the **Federal Register** and local newspapers at least 15 days before the hearing.

Peer Review

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994, (59 FR 34270) and our August 22, 2016, memorandum updating and clarifying the role of peer review of listing actions under the Act, we sought the expert opinions of 13 appropriate specialists regarding the SSA report for the yellow lance, which informed this proposed rule. The purpose of peer review is to ensure that our listing determination is based on scientifically sound data, assumptions, and analyses. The peer reviewers have expertise in mussel biology, habitat, and stressors (factors negatively affecting the species) to the species. We invite any additional comment from the peer reviewers during this public comment period.

Previous Federal Actions

We identified the yellow lance as a Category 2 candidate species in our November 21, 1991, Animal Candidate Review for Listing as Endangered or Threatened Species (56 FR 58804). Category 2 candidates were defined as taxa for which we had information that listing was possibly appropriate, but conclusive data on biological vulnerability and threats were not available to support a proposed rule at that time. The species remained a Category 2 candidate in a subsequent Candidate Notice of Review (CNOR) (59 FR 58982; November 15, 1994). In the February 28, 1996, CNOR (61 FR 7596), we discontinued the designation of species as Category 2 candidates; therefore, the yellow lance was no longer a candidate species.

On April 20, 2010, we were petitioned to list 404 aquatic species, including yellow lance, in the southeastern United States. In response to the petition, we completed a partial 90-day finding on September 27, 2011 (76 FR 59836), in which we announced our finding that the petition contained substantial information that listing may be warranted for the yellow lance. On April 15, 2015, the Center for Biological Diversity (CBD) filed a complaint against the Service (1:15–CV–00229–EGS) for failure to complete a 12-month finding for the yellow lance in accordance with statutory deadlines. On September 9, 2015 the Service and the CBD filed stipulated settlements in the District of Columbia, agreeing that the Service would submit to the **Federal Register** a 12-month finding for the yellow lance no later than March 31, 2017 (*Center for Biological Diversity* v. *Jewell,* case 1:14–CV–01021–EGS/JMF). We conducted a status review for the species, and this proposed listing rule constitutes our 12-month petition finding for the yellow lance. We intend to publish a proposal to designate critical habitat for the yellow lance under the Act in the near future.

Background

A thorough review of the taxonomy, life history, and ecology of the yellow lance is presented in the Species Status Assessment Report for the yellow lance (*Elliptio lanceolata*) Version 1.2 (Service, 2017). The yellow lance is a freshwater mussel found in eight drainages from the upper Chesapeake River Basin in Maryland to the Neuse River Basin in North Carolina. The yellow lance was described in Bogan et al. (2009, p. 9) from seven river basins, from the Patuxent River Basin, the lower Chesapeake Bay basins (Rappahannock, York, James), the Chowan River Basin, and the Tar and Neuse River basins in North Carolina. There are also historical occurrences of the species recorded in the Potomac River Basin, although the accuracy of one of these records is unclear (Villela 2006, p. 11).

The yellow lance is a bright yellow, elongate mussel with a shell over twice as long as tall, usually no more than 86 millimeters (mm) (3.4 inches (in)) in length. They are omnivores that primarily filter feed on a wide variety of microscopic particulate matter suspended in the water column, including phytoplankton, zooplankton, bacteria, detritus, and dissolved organic matter (Haag 2012, p. 26). Juveniles likely pedal feed in the sediment, whereas adults filter feed from the water column. Like most freshwater mussels, they have a unique life cycle that relies on fish hosts for successful reproduction. Following release from the female mussel, floating glochidia (larvae) attach to the gills and scales of host minnows.

The yellow lance is a sand-loving species (Alderman 2003, p. 6) often found buried deep in clean, coarse to medium sand and sometimes migrating with shifting sands (NatureServe 2015, p. 6), although it has also been found in gravel substrates. The species is dependent on clean (*i.e.,* not polluted), moderate flowing water with high dissolved oxygen content in riverine or larger creek environments. Most freshwater mussels, including the yellow lance, are found in aggregations (mussel beds) that vary in size and are often separated by stream reaches in which mussels are absent or rare (Vaughn 2012, p. 983). Genetic exchange occurs between and among mussel beds via sperm drift, host fish movement, and movement of mussels during high flow events.

Summary of Biological Status and Threats

The Act directs us to determine whether any species is an endangered species or a threatened species because of any factors affecting its continued existence. The SSA report documents the results of our comprehensive biological status review for the yellow lance, including an assessment of the potential stressors to the species. The SSA report does not represent a decision by the Service on whether the yellow lance should be proposed for listing as an endangered or threatened species under the Act. The SSA report, however, provides the scientific basis that informs our regulatory decision, which involves the further application of standards within the Act and its implementing regulations and policies. The following is a summary of the key results and conclusions from the SSA report; the full SSA report can be found on the Southeast Region Web site at *https://www.fws.gov/southeast/* and at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2017–0017.

Summary of Analysis

To assess yellow lance viability, we used the three conservation biology principles of resiliency, representation, and redundancy (Shaffer and Stein 2000, pp. 306–310). Briefly, resiliency supports the ability of the species to withstand environmental and demographic stochasticity (for example, wet or dry, warm or cold years); representation supports the ability of

the species to adapt over time to long-term changes in the environment (for example, climate changes); and redundancy supports the ability of the species to withstand catastrophic events (for example, droughts, hurricanes). In general, the more redundant and resilient a species is and the more representation it has, the more likely it is to sustain populations over time, even under changing environmental conditions. Using these principles, we identified the species' ecological requirements for survival and reproduction at the individual, population, and species levels, and described the beneficial and risk factors influencing the species' viability.

The SSA process can be categorized into three sequential stages. During the first stage, we used the conservation biology principles of resiliency, redundancy, and representation (together, the 3Rs) to evaluate the yellow lance's life-history needs. The next stage involved an assessment of the historical and current condition of the species' demographics and habitat characteristics, including an explanation of how the yellow lance arrived at its current condition. The final stage of the SSA involved making predictions about the species' response to positive and negative environmental and anthropogenic influences. This process used the best available information to characterize viability as the ability of the yellow lance to sustain populations in the wild over time. We utilize this information to inform our regulatory decision in this 12-month finding and proposed rule.

To evaluate the current and future viability of the yellow lance, we assessed a range of conditions to allow us to consider the species' resiliency, representation, and redundancy. For the purposes of this assessment, populations were delineated using the eight river basins that yellow lance mussels have historically occupied (*i.e.,* Patuxent, Potomac, Rappahannock, York, James, Chowan, Tar, and Neuse River basins). Because the river basin level is at a very coarse scale, populations were further delineated using management units (MUs). MUs were defined as one or more HUC10 (hydrologic unit code) watersheds that species experts identified as most appropriate for assessing population-level resiliency.

To assess resiliency, we analyzed occurrence, recruitment, and abundance data (''population factors'') as well as four habitat elements that influence the species: Water quality, water quantity, substrate, and habitat connectivity (''habitat elements''). We then assessed the overall condition of each population. Overall population condition rankings were determined by combining the three population factors and four habitat elements. For a more detailed explanation of the condition categories, see Table 1, below.

Representation for the yellow lance can be described in terms of river basin variability (known from eight historical river basins), physiographic variability (Mountains, Piedmont, and Coastal Plain), and latitudinal variability (Maryland south to North Carolina). High redundancy for yellow lance is defined as multiple resilient populations (inclusive of multiple, resilient MUs) distributed throughout the species' historical range. That is, highly resilient populations, coupled with a relatively broad distribution, have a positive relationship to species-level redundancy.

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Table 1. Population and habitat characteristics used to create condition categories for resiliency assessment.

	POPULATION FACTORS				HABITAT ELEMENTS		
Condition Category	Occupancy Decline	Approximate Abundance	Reproduction	Water Quality	Water Quantity/Flow	In-stream substrate	Habitat Connectivity
High	<30% decline	Cumulative numbers at high and of known range (over 300 individuals observed over time); 100+ live individuals observed in past 10 years	More than 50% of sites with recent (past 10 years) documentation of reproduction (gravidity) or presence of small individuals	Very few (if any) known impairment or contaminant problems (<5 miles impaired streams; no major discharges, <10 non-major discharges)	Optimal flowing water conditions to remove fine sediments, allow for food delivery, and maximize reproduction; no known flow issues; isolated low flow/drought periods; not flashy flow regime	Predominantly natural (>70% forested) ARA; <8% impervious surfaces in HUC10 watershed	Very little (if any) known habitat fragmentation issues (<10 dams per MU; avg # of Road Crossings <300 per MU)
Moderate	31-50% decline	Moderate numbers (101 to 300) of individuals observed over time; 51-100 live individuals observed in past 10 years	25-50% of sites with recent documentation of reproduction or presence of small individuals	Impairment or contaminants known to be an issue, but not at a level to put population at risk of being eliminated (5-50 miles impaired streams; 1-3 major discharges; 10-25 non-major discharges)	Water flow not sufficient to consistently remove fine sediments; drying conditions which could impact both food delivery and successful reproduction; moderate flow issues, including 3 to 4 years of consecutive drought or moderately flashy flows	20-70% forested ARA; 8-15% impervious surfaces in HUC10 watershed	Some habitat fragmentation issues (10-30 dams per MU; Avg # of Road Crossings 300-500 per MU)
Low	51-70% decline	Low numbers (11-100) of individuals observed over time; 11-50 live individuals observed in past 10 years	Fewer than 25% of sites with documentation of recent reproduction or presence of small individuals	Impairment or contaminants at levels high enough to put the population at risk of being eliminated (>50 miles impaired streams; >4 major discharges; 25+ non-major discharges)	Water not flowing - either inundated or dry; severe flow issues; more than 4 consecutive years of drought; flashy flow regime	<20% forested ARA; >15% impervious surfaces in HUC10 watershed	Habitat severely fragmented (30+ dams in MU; 500+ Avg Road Crossings per MU)
Very Low	>70% decline	Very few (less than 10) individuals observed over time; 10 or fewer live individuals observed in past 10 years	Reproduction data are older than 10 years	Impairment or contaminant at levels that cannot support species survival	Flow conditions do not support species survival	Instream habitat unable to support species survival	Habitat extremely fragmented and unable to support species survival
Ø	Total Loss	Only shells observed over time (no live)	Population is extirpated or no data	N/A	N/A	N/A	N/A

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Current Condition of Yellow Lance

The historical range of the yellow lance included streams and rivers in the Atlantic Slope drainages from the Patuxent River Basin south to the Neuse River Basin, with the documented historical distribution in 12 MUs within eight former populations. The yellow lance is presumed extirpated from 25 percent (3/12) of the historically occupied MUs. Of the remaining nine occupied MUs, 17 percent are estimated to have high resiliency, 8 percent moderate resiliency, and 67 percent low resiliency. At the population level, the overall condition of one of the eight populations (the Tar population) is estimated to have moderate resiliency, while the remaining six extant populations (Patuxent, Rappahannock, York, James, Chowan, and Neuse populations) are characterized by low resiliency. The Potomac population is presumed to be extirpated. An assessment of the habitat elements finds that 86 percent of streams that remain part of the current species' range are estimated to be in low or very low condition.

Once known to occupy streams in three physiographic regions (Mountain, Piedmont, and Coastal Plain), the species has lost occurrences in each physiographic region compared with historical occurrences, although it is still represented by at least one population in each region. We estimated that the yellow lance currently has reduced adaptive potential relative to historical potential due to decreased representation in seven river basins and three physiographic regions. The species retains most of its known river basin variability, but its distribution has been greatly reduced in the Rappahannock, York, Chowan, and Neuse River populations. In addition, compared to historical distribution, the species has declined by 70 percent in the Coastal Plain region and by approximately 50 percent in both the Piedmont and the Mountain regions. Latitudinal variability is also reduced,

as much of the species' current distribution has contracted and is largely limited to the southern portions of its historical range, primarily in the Tar River Basin.

While the overall range of the yellow lance has not changed significantly, the remaining occupied portions of the range have become constricted within each basin and the species is largely limited to the southern portions of its historical range. One population (the Tar population, the southernmost population) was estimated to be moderately resilient, but all other extant populations exhibit low resiliency. Redundancy was estimated as the number of historically occupied MUs that remain currently occupied. The species retains redundancy (albeit in low condition) within the Rappahannock, Chowan, and Neuse River populations, and one population (Tar) has multiple moderate or highly resilient management units. Overall, the species has decreased redundancy across its range due to an estimated 57 percent reduction in occupancy compared to historical levels.

Risk Factors for the Yellow Lance

Aquatic systems face a multitude of natural and anthropogenic factors that may impact the status of species within those systems (Neves et al., 1997, p. 44). Generally, these factors can be categorized as either environmental stressors (*e.g.,* development, agriculture practices, or forest management) or systematic changes (*e.g.,* climate change, invasive species, dams or other barriers). The largest threats to the future viability of the yellow lance relate to habitat degradation from stressors influencing water quality, water quantity, instream habitat, and habitat connectivity. All of these factors are exacerbated by the effects of climate change. A brief summary of these primary stressors is presented below; for a full description of these stressors, refer to chapter 4 of the SSA report for the yellow lance.

Environmental Stressors

Development: Development refers to urbanization of the landscape, including (but not limited to) land conversion for urban and commercial use, infrastructure (roads, bridges, utilities), and urban water uses (water supply reservoirs, wastewater treatment, etc.). The effects of urbanization may include alterations to water quality, water quantity, and habitat (both in-stream and stream-side) (Ren et al., 2003, p. 649; Wilson 2015, p. 424). Yellow lance adults require clear, flowing water with a temperature less than 35 degrees Celsius (°C) (95 degrees Fahrenheit (°F)) and a dissolved oxygen greater than 3 milligrams per liter (mg/L). Juveniles require very specific interstitial chemistry to complete that life stage: Low salinity (similar to 0.9 parts per thousand (ppt)), low ammonia (similar to 0.7 mg/L), low levels of copper and other contaminants, and dissolved oxygen greater than 1.3 mg/L.

Impervious surfaces associated with development negatively affect water quality when pollutants that accumulate on impervious surfaces are washed directly into the streams during storm events. Storm water runoff affects water quality parameters such as temperature, pH, dissolved oxygen, and salinity, which in turn alters the water chemistry and could it make it unsuitable for the yellow lance. Concentrations of contaminants, including nitrogen, phosphorus, chloride, insecticides, polycyclic aromatic hydrocarbons, and personal care products, increase with urban development (Giddings et al., 2009, p. 2; Bringolf et al. 2010, p. 1311).

Urban development can lead to increased variability in streamflow, typically increasing the amount of water entering a stream after a storm and decreasing the time it takes for the water to travel over the land before entering the stream (Giddings et al. 2009, p. 1). Stream habitat is altered either directly via channelization or clearing of riparian areas, or indirectly via high streamflows that reshape the channel and cause sediment erosion (Giddings et al. 2009, p. 2). Impervious surfaces associated with increased development cause rain water to accumulate and flow rapidly into storm drains, thereby becoming superheated, which can stress or kill these mussel species when the superheated water enters streams. Pollutants like gasoline, oil, and fertilizers are also washed directly into streams and can kill mussels and other aquatic organisms. The large volumes and velocity of water combined with the extra debris and sediment entering streams following a storm can stress, displace, or kill the yellow lance, and the host fish species that it depends on.

A further risk of urbanization is the accompanying road development that often results in improperly constructed culverts at stream crossings. These culverts act as barriers, either as flow through the culvert varies significantly from the rest of the stream, or if the culvert ends up being perched above the stream bed, and host fish (and, therefore, the yellow lance) cannot pass through them. This leads to loss of access to quality habitat, as well as fragmented habitat and a loss of connectivity between populations of the yellow lance. This can limit both genetic exchange and recolonization opportunities.

All of the river basins within the range of the yellow lance are affected by development, from 7 percent in the Tar River basin to 25 percent in the Patuxent River basin (based on the 2011 National Land Cover Data). The Neuse River basin in North Carolina contains one-sixth of the entire State's population, indicating heavy development pressure on the watershed. The Nottoway MU (in the Chowan population) contains 155 impaired stream miles, 4 major discharges, 32 minor discharges, and over 3,000 road crossings, affecting the quality of the habitat for the yellow lance. The Potomac River basin is currently made up of 12.7 percent impervious surfaces, changing natural streamflow, reducing appropriate stream habitat, and decreasing water quality throughout the population. For complete data on all of the populations, refer to appendix D of the SSA report.

Agricultural Practices: The main impacts to the yellow lance from agricultural practices are from nutrient pollution and water pumping for irrigation. Fertilizers and animal manure, which are both rich in nitrogen and phosphorus, are the primary sources of nutrient pollution from agricultural sources. Excess nutrients impact water quality when it rains or when water and soil containing nitrogen and phosphorus wash into nearby waters or leach into the water table/ground waters causing algal blooms. These algal blooms can harm freshwater mussels by suffocating host fish and decreasing available oxygen in the water column.

It is common practice to pump water for irrigation from adjacent streams or rivers into a reservoir pond, or to spray the stream or river water directly onto crops. If the water withdrawal is excessive or done illegally, this may cause impacts to the amount of water available to downstream sensitive areas during low flow months, resulting in dewatering of channels and stranding of mussels, leading to desiccation and death. In the Rappahannock River basin, for example, the upper watershed supports largely agricultural land uses. Sedimentation is a problem in the upper watershed, as stormwater runoff from the major tributaries (Rapidan and Hazel rivers) leaves the Rappahannock River muddy even after minor storm events. According to the 2011 National Land Cover Data, all of the watersheds within the range of the yellow lance are affected by agricultural land uses, most with 20 percent or more of the

watershed having been converted for agricultural use.

Forest Management: Silviculture activities when performed according to strict forest practices guidelines (FPGs) or best management practices (BMPs) can retain adequate conditions for aquatic ecosystems; however, when FPGs/BMPs are not followed, these practices can also contribute to the myriad of stressors facing aquatic systems in the Southeast. Both small- and large-scale forestry activities have been shown to have a significant impact upon the physical, chemical, and biological characteristics of adjacent small streams (Allan 1995, p. 107). The clearing of large areas of forested wetlands and riparian systems can eliminate shade provided by these canopies, exposing streams to more sunlight and increasing the in-stream water temperature. The increase in stream temperature and light after deforestation has been found to alter the macroinvertebrate and other aquatic species richness and abundance composition in streams (Couceiro et al. 2007, p. 272; Kishi et al. 2004, p. 283; Caldwell et al. 2014, p. 3). As stated above, the yellow lance is sensitive to changes in temperature, and sustained temperature increases will stress and possibly lead to mortality for the species.

Further, many forestry activities do not require a permit for wetland or stream fill, as many silviculture activities are exempted from permit requirements (USACE 2016, entire; USEPA 2017, p. 1). Forestry activities often include the construction of logging roads through the riparian zone, and this can directly degrade nearby stream environments (Aust et al. 2011, p. 123). Roads can cause point source pollution and sedimentation, as well as sedimentation traveling downstream into more sensitive habitats. These effects lead to stress and mortality for the yellow lance, as discussed in ''*Development,*'' above. While BMPs are widely adhered to, they were not always common practice. The most recent surveys of Southeastern U.S. States show that the average implementation rate is at 92 percent; so while improper implementation is rare, it can have drastic negative effects on sensitive aquatic species like freshwater mussels.

Systematic Changes

Climate Change: Aquatic systems are encountering changes and shifts in seasonal patterns of precipitation and runoff as a result of climate change. While mussels have evolved in habitats that experience seasonal fluctuations in discharge, global weather patterns can have an impact on the normal regimes (*e.g.,* El Niño or La Niña). Even during naturally occurring low flow events, mussels become stressed either because they exert significant energy to move to deeper waters or they may succumb to desiccation. Because low flows in late summer and early fall are stress-inducing, droughts during this time of year result in stress and, potentially, an increased rate of mortality. Droughts have impacted all river basins within the range of the yellow lance, from an ''abnormally dry'' ranking for North Carolina and Virginia in 2001 on the Southeast Drought Monitor scale to the highest ranking of ''exceptionally dry'' for the entire range of the yellow lance in 2002 and 2007. The 2015 drought data indicated the entire Southeast ranging from ''abnormally dry'' to ''moderate drought'' or ''severe drought.'' These data are from the first week in September, indicating a very sensitive time for drought to be affecting the yellow lance. The Middle Neuse tributaries of the Neuse River basin had consecutive drought years from 2005–2012, indicating sustained stress on the species over a long period of time. Sedentary freshwater mussels have limited refugia from disturbances such as droughts and floods, and they are completely dependent on specific water temperatures to complete their physiological requirements. Changes in water temperature lead to stress, increased mortality, and also increase the likelihood of extinction for the species (Poff et al. 2002, pp. ii–v). Increases in the frequency and strength of storms events alter stream habitat. Stream habitat is altered either directly via channelization or clearing of riparian areas, or indirectly via high streamflows that reshape the channel and cause sediment erosion (Giddings et al. 2009, p. 2). The large volumes and velocity of water, combined with the extra debris and sediment entering streams following a storm, stress, displace, or kill yellow lance and the host fish species on which it depends.

Invasive Species: There are many areas across the States of Maryland, Virginia, and North Carolina where aquatic invasive species are invading aquatic communities and altering biodiversity by competing with native species for food, light, or breeding and nesting areas. For example, the Asian clam (*Corbicula fluminea*) alters benthic substrates, competes with native species for limited resources, and causes ammonia spikes in surrounding water when they die off en masse (Scheller 1997, p. 2). Juvenile mussels need low levels of ammonia to survive that life stage, and a multitude of bioassays conducted on 16 mussel species (summarized by Augspurger et al. 2007, pp. 2025–2028) show that freshwater mollusks are more sensitive than previously known to some chemical pollutants, including ammonia. The Asian clam is ubiquitous across the southeastern United States and is present in watersheds across the range of the yellow lance (Foster et al. 2017). The flathead catfish (*Pylodictis olivaris*) is an apex predator known to feed on almost anything, including other fish, crustaceans, and mollusks, and to impact host fish communities, reducing the amount of fish available as hosts for the mussels to complete their glochidia life stage. Introductions of flathead catfish into rivers in North Carolina have led to steep declines in numbers of native fish. The flathead catfish has been documented in the Potomac, James, Roanoke, Tar, and Neuse river systems.

Hydrilla (*Hydrilla verticillata*), an aquatic plant, alters stream habitat, decreases flows, and contributes to sediment buildup in streams (NCANSMPC 2015, p. 57). High sedimentation can cause suffocation, reduce stream flow, and make it difficult for mussels' interactions with host fish necessary for development. Hydrilla occurs in several watersheds where the yellow lance occurs, including recent documentation from the Tar River. The dense growth is altering the flow in this system and causing sediment buildup, which can cause suffocation in filter-feeding mussels. While data are lacking on hydrilla currently having population-level effects on the yellow lance, the spread of this invasive plant is expected to increase in the future.

Barriers: Extinction/extirpation of North American freshwater mussels can be traced to impoundment and inundation of riffle habitats (shallow water with rapid currents running over gravel or rocks) in all major river basins of the central and eastern United States (NCWRC 2015a, p. 109). Upstream of dams, the change from flowing to impounded waters, increased depths, increased buildup of sediments, decreased dissolved oxygen, and the drastic alteration in resident fish populations can threaten the survival of mussels and their overall reproductive success. Downstream of dams, fluctuations in flow regimes, minimal releases and scouring flows, seasonal dissolved oxygen depletion, reduced or increased water temperatures, and changes in fish assemblages can also threaten the survival and reproduction of many mussel species. Because the

yellow lance uses smaller host fish (*e.g.,* darters and minnows), it is even more susceptible to impacts from habitat fragmentation due to increasing distance between suitable habitat patches and a low likelihood of host fish swimming over that distance (C. Eads (NCSU) 2016, pers. comm.). Even improperly constructed culverts at stream crossings can act as significant barriers, and have some similar effects as dams on stream systems. Fluctuating flows through the culvert can vary significantly from the rest of the stream, preventing fish passage and scouring downstream habitats. If a culvert ends up being perched above the stream bed, aquatic organisms cannot pass through it. These barriers not only fragment habitats along a stream course, they also contribute to genetic isolation of the yellow lance. All 12 of the MUs containing yellow lance populations have been impacted by dams, with as few as 3 dams in the Fishing Creek subbasin to over 100 dams in the York basin (Service 2016, appendix D). The Middle Neuse contains 237 dams and over 5,000 stream crossings, so connectivity there has been severely affected by barriers.

Synergistic Effects

In addition to the impacts on the yellow lance individually, it is likely that several of the above summarized risk factors are acting synergistically or additively on the species. The combined impact of multiple stressors is likely more harmful than a single stressor acting alone. For example, in the Meherrin River MU, there are four stream reaches with 34 miles of impaired streams. The stream reaches have low benthic-macroinvertebrate scores, low dissolved oxygen, low pH, and contain *Escherichia coli* (also known as *E. coli*). There are 16 non-major and 2 major discharges within this MU, along with 7 dams, 676 road crossings, and droughts recorded for 4 consecutive years in 2007–2010. The combination of all of these stressors on the sensitive aquatic species in this habitat has impacted yellow lance such that no individuals have been recorded here since 1994.

Conservation Actions

The Service and State wildlife agencies are working with numerous partners to make ecosystem management a reality, primarily by providing technical guidance and offering development of conservation tools to meet both species and habitat needs in aquatic systems from Maryland to North Carolina. There are ongoing efforts to work with agriculture producers through the U.S. Department of Agriculture's Natural Resources Conservation Service to install riparian buffers along streams. Land trusts are targeting key parcels for acquisition, Federal and State biologists are surveying and monitoring species occurrences, and recently there has been a concerted effort to ramp up captive propagation and species population restoration via augmentation, expansion, and reintroduction efforts.

In 2014, North Carolina Wildlife Resources Commission staff and partners began a concerted effort to propagate the yellow lance in hopes of augmenting existing populations in the Tar and Neuse River basins. In July 2015, 270 yellow lances were stocked into Sandy Creek, a tributary of the Tar River. Annual monitoring to evaluate growth and survival is planned, and additional propagation and stocking efforts will continue in upcoming years.

For a more-detailed discussion of our evaluation of the biological status of the yellow lance and the factors that may affect its continued existence, please see the SSA report for the yellow lance (*Elliptio lanceolata*) (Service, 2017 entire). Our conclusions are based upon the best available scientific and commercial data and the expert opinion of the SSA team members.

Future Scenarios

For the purpose of this assessment, we define viability as the ability of the species to sustain populations in the wild over time (in this case, 50 years). To help address uncertainty associated with the degree and extent of potential future stressors and their impacts on species' requirements, the 3Rs were assessed using four plausible future scenarios. These scenarios were based, in part, on the results of urbanization (Terando et al. 2014) and climate models (International Panel on Climate Change 2013) that predict changes in habitat used by the yellow lance. To forecast the biological conditions of the yellow lance into the future, we devised plausible future scenarios by eliciting expert information on the primary stressors anticipated to affect the species into the future: Habitat loss and degradation due to urbanization and the effects of climate change. The models that were used to forecast urbanization into the future projected out 50 years, and climate change models included that timeframe as well. For more detailed information on these models and their projections, please see the SSA report for the yellow lance (Service, 2017).

In scenario one, the ''Status Quo'' scenario, factors that influence current populations of the yellow lance were assumed to remain constant over the 50-year time horizon. Climate models predict that, if emissions continue at current rates, the Southeast will experience an increase in low flow (drought) events (IPCC 2013, p. 7). Likewise, this scenario assumed the 'business as usual' pattern of urban growth, which predicts that urbanization will continue to increase rapidly (Terando et al. 2014, p. 1). This continued growth in development means increases in impervious surfaces, increased variability in streamflow, channelization of streams or clearing of riparian areas, and other negative effects explained above under ''*Development.*'' The ''Status Quo'' scenario also assumed that current conservation efforts would remain in place but that no new actions would be taken.

In scenario two, the ''Pessimistic'' scenario, factors that negatively influence yellow lance populations get worse; reflecting Climate Model RCP8.5 (Wayne 2013, p. 11), effects of climate change are expected to be magnified beyond what is experienced in the ''Status Quo'' scenario. Effects are predicted to result in extreme heat, more storms and flooding, and exacerbated drought conditions (IPCC 2013, p. 7). Based on the results of the SLEUTH BAU model (Terando et al. 2014, entire), urbanization in yellow lance watersheds could expand to triple the amount of developed area, resulting in large increases of impervious surface cover and, potentially, consumptive water use. Increased urbanization and climate change effects are likely to result in increased impacts to water quality, water flow, and habitat connectivity, and we predict that there is limited capacity for species restoration under this scenario.

Scenario three is labeled the ''Optimistic'' scenario, under which factors that influence population and habitat conditions of the yellow lance are expected to be somewhat improved. Reflecting Climate Model RCP2.6 (Wayne 2013, p.11), climate change effects are predicted to be minimal under this scenario, so effects of increased temperatures, storms, and droughts are not reflected in ''Optimistic'' scenario predictions, as they were in ''Status Quo'' and ''Pessimistic'' scenario predictions. Urbanization is also predicted to have less impact in this scenario as reflected by effects that are slightly lower than BAU model predictions (Terando et al. 2014; Table 5–1). Because water quality, water flow, and habitat impacts are predicted to be less severe in this scenario as compared to others, it is expected that the yellow lance will

maintain or have a slightly positive response. While the capacity for species restoration was kept at current levels for this scenario, predicted responses to targeted conservation activities were more positive based on the predicted habitat conditions under this scenario.

In scenario four, the ''Opportunistic'' scenario, those landscape-level factors (*e.g.,* development and climate change) that are influencing populations of the yellow lance get moderately worse, reflecting Climate Change Model RCP4.5 or RCP6 (Wayne 2013, p. 11) and SLEUTH BAU (Terando et al. 2014; Table 5–1). Effects of climate change are expected to be moderate, resulting in some increased impacts from heat, storms, and droughts (IPCC 2013, p. 7). Urbanization in this scenario reflects the moderate BAU SLEUTH levels, indicating approximately double the amount of developed area compared to current levels. This continued growth in development means increases in impervious surfaces, increased variability in streamflow, channelization of streams or clearing of riparian areas, and other negative effects explained above under ''*Development.*''

Determination

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations at 50 CFR part 424, set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(a)(1) of the Act, we may list a species based on: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. Listing actions may be warranted based on any of the above threat factors, singly or in combination.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the yellow lance. The historical range of the yellow lance included streams and rivers in the Atlantic Slope drainages from the Patuxent River Basin south to the Neuse River Basin, with the documented historical distribution in 12 MUs within eight former populations. The yellow lance is presumed extirpated from 25 percent (3) of the historically occupied MUs. Of the remaining nine occupied MUs, 17 percent are estimated to have high resiliency, 8 percent moderate resiliency, and 67 percent low resiliency. Scaling up from the MU to the population level, one of eight former populations (the Tar population) was estimated to have moderate resiliency, while the remaining six extant populations (Patuxent, Rappahannock, York, James, Chowan, and Neuse populations) were characterized by low resiliency. The Potomac population is presumed to be extirpated, thus eliminating 13 percent of the species' historical range. Eighty-six percent of streams that remain part of the current species' range are estimated to be in low or very low condition. Known to historically occupy streams in three physiographic regions, the species continues to maintain physiographic representation in all three regions, although occupancy has decreased in each region. An estimated 50 percent loss has occurred in the Mountain region's watersheds, an estimated 56 percent loss has occurred in the Piedmont region's watersheds, and an estimated 70 percent loss has occurred in the Coastal Plain region's watersheds.

The yellow lance faces threats from declines in water quality, loss of stream flow, riparian and instream fragmentation, and deterioration of instream habitats (Factor A). These threats, which are expected to be exacerbated by continued urbanization (Factor A) and effects of climate change (Factor E), were important factors in our assessment of the future viability of the yellow lance. Given current and future decreases in resiliency, populations become more vulnerable to extirpation from stochastic events, in turn, resulting in concurrent losses in representation and redundancy. The range of plausible future scenarios of yellow lance habitat conditions and population factors suggest possible extirpation in as many as five of seven currently extant populations. The most optimistic model predicted that only two populations will remain extant in 50 years and those populations are expected to be characterized by low occupancy and abundance.

Proposal To List the Yellow Lance

The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''that is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.'' We considered whether the yellow lance meets either of these definitions, and we find that the yellow lance meets the definition of a threatened species. Our analysis of the species' current and future conditions, as well as the conservation efforts discussed above, show that the population and habitat factors used to determine the resiliency, representation, and redundancy for the yellow lance will continue to decline so that it is likely to become in danger of extinction throughout all or a significant portion of its range within the foreseeable future. Therefore, on the basis of the best available scientific and commercial information, we propose to list the yellow lance as a threatened species in accordance with sections 3(20) and 4(a)(1) of the Act.

We considered whether the yellow lance is currently in danger of extinction and determined that proposing endangered status is not appropriate. The current conditions as assessed in the yellow lance SSA report show that 12 MUs over seven (of eight) different populations (river systems) occur over a majority (87 percent) of the species' historical range. The yellow lance still exhibits representation across all three physiographic regions and extant populations remain from the Patuxent River south to the Neuse River. While threats are currently acting on the species and many of those threats are expected to continue into the future, we did not find that the species is currently in danger of extinction throughout all of its range. According to our assessment of plausible future scenarios, the species is likely to become an endangered species in the foreseeable future throughout all of its range.

Under the Act and our implementing regulations, a species warrants listing if it is endangered or threatened throughout all or a significant portion of its range. Because we have determined that the yellow lance is threatened throughout all of its range, no portion of its range can be ''significant'' for purposes of the definitions of ''endangered species'' and ''threatened species.'' See the Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'' in the Endangered Species Act's Definitions of ''Endangered Species'' and ''Threatened Species'' (79 FR 37578; July 1, 2014).

Critical Habitat

Section 4(a)(3) of the Act, as amended, and implementing regulations in 50 CFR 424.12, require that, to the maximum extent prudent and determinable, we designate critical habitat at the time the species is determined to be an endangered or threatened species. Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of this Act, on which are

found those physical or biological features

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, upon a determination by the Secretary of the Interior that such areas are essential for the conservation of the species.

Our regulations (50 CFR 424.12(a)(1)) state that the designation of critical habitat is not prudent when any of the following situations exist: (1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species. The regulations also provide that, in determining whether a designation of critical habitat would not be beneficial to the species, the factors that the Services may consider include but are not limited to: Whether the present or threatened destruction, modification, or curtailment of a species' habitat or range is not a threat to the species, or whether any areas meet the definition of ''critical habitat'' (50 CFR 424.12(a)(1)(ii)).

We do not know of any imminent threat of take attributed to collection or vandalism for the yellow lance. The available information does not indicate that identification and mapping of critical habitat is likely to initiate any threat of collection or vandalism for the yellow lance. Therefore, in the absence of finding that the designation of critical habitat would increase threats to the species, if there are benefits to the species from a critical habitat designation, a finding that designation is prudent is appropriate.

The potential benefits of designation may include: (1) Triggering consultation under section 7 of the Act, in new areas for actions in which there may be a Federal nexus where it would not otherwise occur because, for example, it is unoccupied; (2) focusing conservation activities on the most essential features and areas; (3) providing educational benefits to State or county governments or private entities; and (4) preventing people from causing inadvertent harm to the protected species. Because designation of critical habitat would not likely increase the degree of threat to the yellow lance and may provide some measure of benefit, designation of critical habitat may be prudent for the yellow lance.

Our regulations (50 CFR 424.12(a)(2)) further state that critical habitat is not determinable when one or both of the following situations exists: (1) Information sufficient to perform required analysis of the impacts of the designation is lacking; or (2) the biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat. A careful assessment of the economic impacts that may occur due to a critical habitat designation is still ongoing, and we are in the process of working with the States and other partners in acquiring the complex information needed to perform that assessment. The information sufficient to perform a required analysis of the impacts of the designation is lacking, and, therefore, we find designation of critical habitat for the yellow lance to be not determinable at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened species under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness and conservation by Federal, State, Tribal, and local agencies; private organizations; and individuals. The Act encourages cooperation with the States and other countries, and calls for recovery actions to be carried out for listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act calls for the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed and preparation of a draft and final recovery plan. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan also identifies recovery criteria for review of when a species may be ready for reclassification from endangered to threatened (''downlisting'') or removal from the List of Endangered and Threatened Wildlife or Plants (''delisting''), and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan for the yellow lance will be available on our Web site (*http://www.fws.gov/endangered*), or from our Raleigh Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (*e.g.,* restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of the yellow lance requires cooperative conservation efforts on private, State, and Tribal lands. If the yellow lance is listed, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the States of Maryland, Virginia, and North Carolina would be eligible for Federal funds to implement management actions that promote the protection or recovery of the yellow lance. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants*.

Although the yellow lance is only proposed for listing under the Act at

this time, please let us know if you are interested in participating in recovery efforts for this species. Additionally, we invite you to submit any new information on the yellow lance whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the species' habitat that may require conference or consultation or both as described in the preceding paragraph include, but are not limited to, management and any other landscape-altering activities on Federal lands administered by the U.S. Fish and Wildlife Service, U.S. Forest Service, and National Park Service; issuance of section 404 Clean Water Act (33 U.S.C. 1251 *et seq.*) permits by the U.S. Army Corps of Engineers; and construction and maintenance of roads or highways by the Federal Highway Administration.

Under section 4(d) of the Act, the Service has discretion to issue regulations that we find necessary and advisable to provide for the conservation of threatened species. The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to threatened wildlife. The prohibitions of section 9(a)(1) of the Act, as applied to threatened wildlife and codified at 50 CFR 17.31, make it illegal for any person subject to the jurisdiction of the United States to take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these) threatened wildlife within the United States or on the high seas. In addition, it is unlawful to import; export; deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of commercial activity; or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to employees of the Service, the National Marine Fisheries Service, other Federal land management agencies, and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving threatened wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.32. With regard to threatened wildlife, a permit may be issued for the following purposes: For scientific purposes, to enhance the propagation or survival of the species, for economic hardship, for zoological exhibition, for educational purposes, or for other special purposes consistent with the purposes of the Act. There are also certain statutory exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a proposed listing on proposed and ongoing activities within the range of the species proposed for listing.

Activities that the Service believes could potentially harm the yellow lance and result in ''take'' include, but are not limited to:

(1) Unauthorized handling or collecting of the species;

(2) Destruction or alteration of the species' habitat by discharge of fill material, dredging, snagging, impounding, channelization, or modification of stream channels or banks;

(3) Destruction of riparian habitat directly adjacent to stream channels that causes significant increases in sedimentation and destruction of natural stream banks or channels;

(4) Discharge of pollutants into a stream or into areas hydrologically connected to a stream occupied by the species;

(5) Diversion or alteration of surface or ground water flow; and

(6) Pesticide/herbicide applications in violation of label restrictions.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the Raleigh Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Required Determinations

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(1) Be logically organized;

(2) Use the active voice to address readers directly;

(3) Use clear language rather than jargon;

(4) Be divided into short sections and sentences; and

(5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), need not be prepared in connection with listing a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of references cited in this proposed rule is available on the Internet at *http://www.regulations.gov* and upon request from the Raleigh Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this proposed rule are the staff members of the Fish and Wildlife Service's Unified Listing Team and the Raleigh Ecological Services Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.11(h), the List of Endangered and Threatened Wildlife, by adding an entry for ''Lance, yellow'' in alphabetical order under CLAMS to read as set forth below:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	*
CLAMS				
*	*	*	*	*
Lance, yellow	*Elliptio lanceolata*	Wherever found	T	[**Federal Register** citation when published as a final rule].
*	*	*	*	*

Dated: March 31, 2017.

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2017–06783 Filed 4–4–17; 8:45 am]

BILLING CODE 4333–15–P

Notices

Federal Register

Vol. 82, No. 64

Wednesday, April 5, 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

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Understanding the Anti-Fraud Measures of Large SNAP Retailers

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the USDA Food and Nutrition Service (FNS) invites the general public and other public agencies to comment on this proposed information collection. This is a new collection for the purpose of learning about the types of Supplemental Nutrition Assistance Program (SNAP) related fraud activity observed by large retailers and the methods they use to prevent fraud and minimize their losses. The goal of the information collection is to learn more about the types of SNAP fraud that occur in large retailer settings; document retailer practices to detect, deter, and deal with fraud (collectively known as loss prevention or loss prevention practices); and determine which practices could provide information that would help FNS in detecting and preventing SNAP fraud.

DATES: Written comments must be received by June 5, 2017.

ADDRESSES: 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 time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the reporting burden on those who are asked to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Eric Sean Williams, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 1014, Alexandria, VA 22312. Comments may also be submitted via fax to the attention of Eric Sean Williams at (703) 305–2576 or via email to *Eric.Williams@fns.usda.gov.*

Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov* and follow the online instructions for submitting comments electronically.

All written comments will be open for public inspection at the office of FNS during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) located at 3101 Park Center Drive, Room 1014, Alexandria, Virginia 22312.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collected should be directed to Eric Williams, Office of Policy Support, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 1014, Alexandria, VA 22302. Requests for additional information or copies of the information collected may also be submitted via fax to the attention of Eric Williams at (703) 305–2576 or by email to *Eric.Williams@fns.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Understanding the Anti-Fraud Measures of Large SNAP Retailers.

OMB Number: 0584–NEW.

Expiration Date: Not Yet Determined.

Abstract: FNS is responsible for authorizing retailers for participation in SNAP as well as monitoring their compliance with applicable regulations. Fraud in the context of SNAP can come from client-level program violations or retailer-level fraud. The latter, which is the focus of this study, can involve different actions such as the buying and selling of benefits or selling ineligible items like alcohol and tobacco. FNS believes that any type of fraud in SNAP weakens the program by diverting benefits from the intended purpose of helping low-income Americans purchase food and undermining the public confidence in the program. Thus, the Agency continually seeks new ways to detect and prevent fraud.

Research has consistently demonstrated that fraud rates are lowest among large retailers. There are several theories for why this may be true, one of which is that large regional or national retail chains of stores have sophisticated loss prevention systems that prevent or detect numerous types of fraud. Thus, a loss prevention system built to discover an employee engaging in credit card fraud could easily be modified to detect an employee engaging in SNAP benefit fraud. Similarly, a system built to prevent internal theft may be able to detect the sale of ineligible items.

Despite theories as to why large stores have low SNAP fraud rates, there is limited understanding of how they prevent SNAP fraud. If internal loss prevention systems prevent SNAP fraud, then it is possible that a better understanding of large store procedures could help FNS refine its procedures for detecting and reducing retailer-level fraud. Thus, FNS desires to understand more about the steps large retailers take to protect themselves from fraud in general and SNAP fraud specifically.

The information collection activities to be undertaken subject to this notice include: Survey of Companies that own/franchise large SNAP authorized retail chains: Surveys will be administered to company SNAP representatives in companies that own, franchise and/or have cooperative agreements with the largest chains of SNAP-authorized stores. These include super store chains, large supermarket chains, convenience store chains, and other chain stores that sell a combination of food and other products, such as household products, pharmaceuticals, or gasoline. The surveys will address the loss prevention systems used by these companies.

Survey of SNAP Authorized Stores owned/franchised/affiliated with large retail chains: Surveys will be administered to managers of super stores, large supermarkets, convenience stores and other chain stores that sell a combination of food and other products. The surveys will address fraud detection and prevention policies and practices. This study does not seek to represent all SNAP retailers. It targets the practices of one segment of the

SNAP authorized retailer population—the largest retail chains. These chains are likely to have the most sophisticated loss prevention systems. Therefore, the study includes the large national and regional chain retailers responsible for transacting about half of all SNAP redemptions. A total of the 35 largest retail corporations and a sample of 2,000 of their store outlets are expected to respond to surveys.

Company SNAP representatives and store managers will be asked questions regarding organizational structure, roles and responsibilities, and tactics used to limit or eliminate fraud in general and SNAP fraud in particular. At a minimum the following fraud abatement methods will be studied at the corporate and store levels: Point of sale systems, analytics, training, surveillance, investigation, and liaison with law enforcement. The surveys will be administered using a web-based survey tool.

Companies and SNAP authorized stores that do not respond to the web-based surveys will receive internet reminders. Those that still do not respond will receive a telephone call through a Computer Aided Telephone Interviewing (CATI) system where trained interviewers will prompt the participant to respond to the survey online or to complete the survey by telephone via CATI.

There is no recordkeeping burden involved in this data collect. The reporting burden identified below reflects the total number of respondents who will participate fully and total number of non-respondents who take in part or chose not to participate fully in this study.

Affected Public: Businesses-for-and-not-for-profit (4,049):

A total of 45 large companies with stores participating in SNAP, and 4,000 SNAP authorized company owned and operate stores, franchised stores or affiliated stores and 5 pretest companies.

Estimated Number of Respondents: 4,049.

Estimated Number of Responses per Respondent: 2.1588.

Estimated Number of Annual Responses: 8,741.

Estimated Time per Response: 0.2258 hours.

Pretesting the company surveys will take a total of 4 hours (two 2-hour interviews), and pretesting the store surveys will take 4 hours (two 2-hour interviews).

FNS plans to contact 45 companies. We anticipate the SNAP representative at 35 companies will respond and spend 0.75 hours identifying key informants and compiling information from various organizational units involved in SNAP. They are likely to include human resources (for training), loss prevention (for loss prevention management and loss prevention procedures used), point of sale management and analytics. The company SNAP representative will spend between 0.75 (web-based response or CATI survey response) hours completing the survey, including time to report on SNAP-specific activities and policies carried out by the SNAP representative and information compiled from other units involved in SNAP. Managers of 2,000 stores will spend an average of 0.75 hours each to respond to the Store Manager Survey.

Estimated Total Annual Burden on Respondents: 1,974.43 hours.

See the burden table (Table 1) below for estimated total burden for each type of business respondent and non-respondents.

Dated: March 13, 2017.

Jessica Shahin,

Acting Administrator, Food and Nutrition Service.

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Table 1: Estimated Total Burden

			Estimated Sample Size and Response Burden										
			Responses					Non-Responses					Grand Total
Affected Public	Respondent (Appendix)	Sample Size	Est. # of Respondents	Est. Frequency of Responses	Est. Total Annual Responses	Hours per Response	Est. Total Burden Hours (Respondents)	Est. # of Non-Respondents	Est. Frequency of Non Responses	Est. Total Non-Annual Response	Hours per Non Response	Est. Burden Hours (Non-Respondents)	Est. Grand Total Burden Hours
Profit/Nonprofit Businesses: Retailers—large food retail companies	Pretest	2	2	1	2	2	4.00	3	1	3	0.25	0.75	4.75
	FNS Survey Announcement	45	35	1	35	0.06	2.10	10	1	10	0.02	0.2	2.30
	Recruitment phone call	45	35	1	35	0.25	8.75	10	1	10	0.25	2.5	11.25
	Invitation Email	45	35	1	35	0.06	2.10	10	1	10	0.02	0.2	2.30
	Reminder Email 1	45	5	1	5	0.06	0.30	40	1	40	0.01	0.4	0.70
	Reminder Email 2	35	5	1	5	0.06	0.30	30	1	30	0.01	0.3	0.60
	Reminder Email 3	30	5	1	5	0.06	0.30	25	1	25	0.01	0.25	0.55
	Reminder Email 4	20	5	1	5	0.03	0.15	20	1	20	0.01	0.2	0.35
	Reminder Telephone Call	15	1	1	1	0.083	0.08	10	1	10	0.01	0.1	0.18
	Compile Information	35	35	1	35	0.75	26.25	0	1	0	0	0	26.25
	Input Data via Web-based Survey	25	25	1	25	0.75	18.75	0	1	0	0	0	18.75
	Respond via Computer-Assisted Telephone Interview Survey (CATI)	10	10	1	10	0.75	7.50	0	1	0	0	0	7.50
Profit/Nonprofit Businesses: Retailers—large food retail chain stores	Pretest	2	2	1	2	2	4.00	3	1	3	0.25	0.75	4.75
	Survey Announcement	2000	2000	1	2000	0.06	120.00	0	1	0	0.02	0	120.00
	Invitation Email	2000	2000	1	2000	0.06	120.00	0	1	0	0.02	0	120.00
	Reminder Email 1	1800	200	1	1400	0.03	42.00	1600	1	1600	0.01	16	58.00
	Reminder Email 2	1600	400	1	400	0.03	12.00	1200	1	1200	0.01	12	24.00
	Reminder Email 3	1200	600	1	600	0.03	18.00	600	1	600	0.01	6	24.00
	Reminder Email 4	600	200	1	200	0.03	6.00	400	1	500	0.01	5	11.00
	Reminder Telephone Call	400	400	1	400	0.083	33.20	400	1	400	0.01	4	37.20
	Compile Information and Respond via Internet	1900	1900	1	1900	0.75	1425.00	0	1	0	0	0	1425.00
	Compile Information and Respond by CATI	100	100	1	100	0.75	75.00	0	1	0	0	0	75.00
Total		4,049	2039	2.295	4680	0.4115	1925.78	2010	2.02	4061	0.012	48.65	1974.43

[FR Doc. 2017–06669 Filed 4–4–17; 8:45 am]
BILLING CODE 3410–30–C

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–853, A–570–010, C–570–011]

Certain Crystalline Silicon Photovoltaic Products From the People's Republic of China and From Taiwan: Final Results of Changed Circumstances Reviews, and Revocation of Antidumping Duty Orders and Countervailing Duty Order, in Part

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

SUMMARY: On February 16, 2017, the Department of Commerce (the ''Department'') published its preliminary results of changed circumstances reviews (''CCRs'') and intent to revoke, in part, the antidumping duty (''AD'') and countervailing duty (''CVD'') orders on certain crystalline silicon photovoltaic products from the People's Republic of China (''PRC'') and the AD order on certain crystalline silicon photovoltaic products from Taiwan (collectively the ''*Orders*'') with respect to certain solar panels. Specifically, the Department preliminarily determined that the producers accounting for substantially all of the production of the domestic like product to which the *Orders* pertain lacked interest in the relief provided by the *Orders* with respect to certain solar panels that are incorporated in the battery charging and maintaining units described below. We invited interested parties to comment on the preliminary results. No party submitted comments. For the final results of these CCRs, the Department is revoking, in part, the *Orders* as to imports of certain solar panels that are incorporated in the battery charging and maintaining units described below.

DATES: Effective April 5, 2017.

FOR FURTHER INFORMATION CONTACT: Magd Zalok or Howard Smith, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4162 or (202) 482–5193, respectively.

Background

On February 18, 2015, the Department published the *Orders* in the **Federal Register**.[1] On April 20, 2016, the Department received a request on behalf of PulseTech Products Corporation (''PulseTech'') for CCRs to revoke, in part, the *Orders* with respect to certain stand-alone solar panels and certain solar panels incorporated in a specific type of battery charging and maintaining unit.[2] In subsequent submissions filed between May 12, 2016, and September 2, 2016, PulseTech modified the description of the exclusion request for solar panels incorporated in certain battery charging and maintaining units. On September 6, 2016, SolarWorld Americas, Inc. (''Petitioner'') stated that it agrees with the scope exclusion language proposed by PulseTech.[3] Ultimately PulseTech withdrew its request for changed circumstances reviews with respect to the stand-alone solar panels not incorporated in battery charging and maintaining units.[4]

On November 10, 2016, the Department published the *Initiation Notice* for the requested CCRs in the **Federal Register**.[5] On February 16, 2017, the Department published the *Preliminary Results* of these CCRs in which it found that producers accounting for substantially all of the production of the domestic like product to which the *Orders* pertain lack interest in the relief afforded by the *Orders* with respect to certain solar panels incorporated in a specific type of battery charging and maintaining unit as described in PulseTech's request.[6] The Department invited interested parties to submit comments on the *Preliminary Results.* We received no comments.

Final Results of Changed Circumstances Reviews, and Revocation of the Orders, in Part

Because no party submitted comments opposing the Department's *Preliminary Results,* and the record contains no other information or evidence that calls into question the *Preliminary Results,* the Department determines, pursuant to section 751(d)(1) of the Tariff Act of 1930, as amended (the ''Act''), section 782(h) of the Act, and 19 CFR 351.222(g), that there are changed circumstances that warrant revocation of the *Orders,* in part. Specifically, because the producers accounting for substantially all of the production of the domestic like product to which the *Orders* pertain lack interest in the relief provided by the *Orders* with respect to the following type of solar panels, we are revoking the *Orders,* in part for solar panels that are:

(1) Less than 300,000 mm^2 in surface area; (2) less than 27.1 watts in power; (3) coated across their entire surface with a polyurethane doming resin; and (4) joined to a battery charging and maintaining unit (which is an acrylonitrile butadiene styrene (''ABS'') box that incorporates a light emitting diode (''LED'')) by coated wires that include a connector to permit the incorporation of an extension cable. The battery charging and maintaining unit utilizes high-frequency triangular pulse waveforms designed to maintain and extend the life of batteries through the reduction of lead sulfate crystals. The above-described battery charging and maintaining unit is currently available under the registered trademark ''SolarPulse.'' The scope description below includes this exclusion language.

Scope of the AD and CVD Orders on Certain Crystalline Silicon Photovoltaic Products From the PRC

The merchandise covered by these orders are modules, laminates and/or panels consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including building integrated materials. For purposes of these orders, subject merchandise includes modules, laminates and/or panels assembled in the PRC consisting of crystalline silicon photovoltaic cells produced in a customs territory other than the PRC.

Subject merchandise includes modules, laminates and/or panels assembled in the PRC consisting of crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction

[1] *See Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Antidumping Duty Order; and Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 80 FR 8592 (Feb. 18, 2015); *see also Certain Crystalline Silicon Photovoltaic Products from Taiwan: Antidumping Duty Order,* 80 FR 8596 (Feb. 18, 2015) (''*Orders*'').

[2] *See* April 20, 2016 letter from PulseTech Products Corporation Re: Resubmission of Requests for Changed Circumstances Review—Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China and from Taiwan (''PulseTech's Request'').

[3] *See* September 6, 2016 letter from Petitioner Re: Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China and Taiwan: Changed Circumstances Review Request—Letter of No Opposition.

[4] *See* PulseTech's October 28, 2016 submission to the Department.

[5] *See Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China and from Taiwan: Notice of Initiation of Changed Circumstances Reviews, and Consideration of Revocation of the Antidumping and Countervailing Duty Orders in Part,* 81 FR 78967 (Nov. 10, 2016) (''*Initiation Notice*'').

[6] *See Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China and from Taiwan: Preliminary Results of Changed Circumstances Reviews, and Intent to Revoke Antidumping Duty Orders and Countervailing Duty Order in Part,* 82 FR 10878 (February 16, 2017) (''*Preliminary Results*'').

formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Excluded from the scope of these orders are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS). Also excluded from the scope of these orders are modules, laminates and/or panels assembled in the PRC, consisting of crystalline silicon photovoltaic cells, not exceeding 10,000 mm^2 in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cells. Where more than one module, laminate and/or panel is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all modules, laminates and/or panels that are integrated into the consumer good. Further, also excluded from the scope of these orders are any products covered by the existing antidumping and countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, laminates and/or panels, from the PRC.[7] Additionally, excluded from the scope of these orders are solar panels that are: (1) Less than 300,000 mm^2 in surface area; (2) less than 27.1 watts in power; (3) coated across their entire surface with a polyurethane doming resin; and (4) joined to a battery charging and maintaining unit (which is an acrylonitrile butadiene styrene (''ABS'') box that incorporates a light emitting diode (''LED'')) by coated wires that include a connector to permit the incorporation of an extension cable. The battery charging and maintaining unit utilizes high-frequency triangular pulse waveforms designed to maintain and extend the life of batteries through the reduction of lead sulfate crystals. The above-described battery charging and maintaining unit is currently available under the registered trademark ''SolarPulse.''

Merchandise covered by these orders is currently classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') under subheadings 8501.61.0000, 8507.20.8030, 8507.20.8040, 8507.20.8060, 8507.20.8090, 8541.40.6020, 8541.40.6030, and 8501.31.8000. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of these orders is dispositive.

Scope of the AD Order on Certain Crystalline Silicon Photovoltaic Products From Taiwan

The merchandise covered by this order is crystalline silicon photovoltaic cells, and modules, laminates and/or panels consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including building integrated materials.

Subject merchandise includes crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Modules, laminates, and panels produced in a third-country from cells produced in Taiwan are covered by this order. However, modules, laminates, and panels produced in Taiwan from cells produced in third-country are not covered by this order.

Excluded from the scope of this order are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS). Also excluded from the scope of this order are crystalline silicon photovoltaic cells, not exceeding 10,000 mm^2 in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cells. Where more than one cell is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all cells that are integrated into the consumer good. Further, also excluded from the scope of this order are any products covered by the existing antidumping and countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the PRC.[8] Also excluded from the scope of this order are modules, laminates, and panels produced in the PRC from crystalline silicon photovoltaic cells produced in Taiwan that are covered by an existing proceeding on such modules, laminates, and panels from the PRC. Additionally, excluded from the scope of this order are solar panels that are: (1) Less than 300,000 mm^2 in surface area; (2) less than 27.1 watts in power; (3) coated across their entire surface with a polyurethane doming resin; and (4) joined to a battery charging and maintaining unit (which is an acrylonitrile butadiene styrene (''ABS'') box that incorporates a light emitting diode (''LED'')) by coated wires that include a connector to permit the incorporation of an extension cable. The battery charging and maintaining unit utilizes high-frequency triangular pulse waveforms designed to maintain and extend the life of batteries through the reduction of lead sulfate crystals. The above-described battery charging and maintaining unit is currently available under the registered trademark ''SolarPulse.''

Merchandise covered by this order is currently classified in the HTSUS under subheadings 8501.61.0000, 8507.20.8030, 8507.20.8040, 8507.20.8060, 8507.20.8090, 8541.40.6020, 8541.40.6030, and 8501.31.8000. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of this order is dispositive.

Instructions to U.S. Customs and Border Protection

Because we determine that there are changed circumstances that warrant the revocation of the *Orders,* in part, and there have been no completed administrative reviews of the *Orders,* we will instruct U.S. Customs and Border Protection (''CBP'') to liquidate without regard to antidumping and countervailing duties, and to refund any estimated antidumping and countervailing duties on, all unliquidated entries of the merchandise covered by this partial revocation that were entered, or withdrawn from

[7] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order,* 77 FR 73018 (Dec. 7, 2012); *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Countervailing Duty Order,* 77 FR 73017 (Dec. 7, 2012).

[8] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order,* 77 FR 73018 (Dec. 7, 2012); *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Countervailing Duty Order,* 77 FR 73017 (Dec. 7, 2012).

warehouse, for consumption, on or after the date that corresponds to the date that suspension of liquidation first began in the relevant proceeding.[9]

Notification

This notice serves as a reminder to parties subject to an administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). 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 sanctionable violation.

We are issuing and publishing these final results and revocation, in part, and notice in accordance with sections 751(b) and 777(i) of the Act and 19 CFR 351.216, 19 CFR 351.221(c)(3), and 19 CFR 351.222.

Dated: March 30, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–06727 Filed 4–4–17; 8:45 am]

BILLING CODE 3510–DS–P

[9] Suspension of liquidation first began for merchandise subject to the CVD order on June 10, 2014; suspension of liquidation first began for merchandise subject to the AD orders on July 31, 2014.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF317

Atlantic Highly Migratory Species; Meeting of the Atlantic Highly Migratory Species Advisory Panel

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

ACTION: Notice of public meeting and webinar/conference call.

SUMMARY: NMFS will hold a 3-day Atlantic Highly Migratory Species (HMS) Advisory Panel (AP) meeting in May 2017. The intent of the meeting is to consider options for the conservation and management of Atlantic HMS. The meeting is open to the public.

DATES: The AP meeting and webinar will be held from 10:30 a.m. to 6 p.m. on Tuesday, May 9, from 9 a.m. to 5 p.m. on Wednesday, May 10, and from 9 a.m. to Noon on Thursday, May 11.

ADDRESSES: The meeting will be held at the Sheraton Silver Spring Hotel, 8777 Georgia Avenue, Silver Spring, MD 20910. The meeting presentations will also be available via WebEx webinar/conference call.

The meeting on Tuesday, May 9, Wednesday, May 10, and Thursday, May 11, 2017, will also be accessible via conference call and webinar. Conference call and webinar access information are available at: *http://www.nmfs.noaa.gov/sfa/hms/advisory_panels/hms_ap/meetings/may-2017/ap-meeting.html.*

Participants are strongly encouraged to log/dial in 15 minutes prior to the meeting. NMFS will show the presentations via webinar and allow public comment during identified times on the agenda.

FOR FURTHER INFORMATION CONTACT: Peter Cooper or Margo Schulze-Haugen at (301) 427–8503.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.,* as amended by the Sustainable Fisheries Act, Public Law 104–297, provided for the establishment of an AP to assist in the collection and evaluation of information relevant to the development of any FMP or FMP amendment for Atlantic HMS. NMFS consults with and considers the comments and views of AP members when preparing and implementing FMPs or FMP amendments for Atlantic tunas, swordfish, billfish, and sharks.

The AP has previously consulted with NMFS on: Amendment 1 to the Billfish FMP (April 1999); the HMS FMP (April 1999); Amendment 1 to the HMS FMP (December 2003); the Consolidated HMS FMP (October 2006); and Amendments 1, 2, 3, 4, 5a, 5b, 6, 7, 8, 9, and 10 to the 2006 Consolidated HMS FMP (April and October 2008, February and September 2009, May and September 2010, April and September 2011, March and September 2012, January and September 2013, April and September 2014, March and September 2015, and March, September, and December 2016), among other things.

The intent of this meeting is to consider alternatives for the conservation and management of all Atlantic tunas, swordfish, billfish, and shark fisheries. We anticipate discussing:

- Amendment 5b on dusky sharks;
- Draft Amendment 10 on Essential Fish Habitat;
- Implementation of Final Amendment 7 on bluefin tuna management, including the upcoming three-year review;
- Progress updates on various other rulemakings, including individual bluefin quota transfer criteria effective dates, and requests for regulatory changes received to date;
- Domestic implementation of recommendations from the 2016 meeting of the International Commission for the Conservation of Atlantic Tunas and issues for 2017;
- Progress updates regarding the exempted fishing permit request to conduct research in pelagic longline closed areas and white shark research; and
- Updates on shark stock assessments.

We also anticipate discussing recreational and commercial fishing topics in specific breakout group sessions, including a detailed discussion of permitting, reporting, and compliance with recreational and commercial vessel requirements in response to several requests. Finally, we intend to invite other NMFS offices and the United States Coast Guard to provide updates on their activities relevant to HMS fisheries.

Additional information on the meeting and a copy of the draft agenda will be posted prior to the meeting at: *http://www.nmfs.noaa.gov/sfa/hms/advisory_panels/hms_ap/meetings/ap_meetings.html.*

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Peter Cooper at (301) 427–8503 at least 7 days prior to the meeting.

Dated: March 31, 2017.

Karen H. Abrams,

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

[FR Doc. 2017–06717 Filed 4–4–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Commerce Spectrum Management Advisory Committee Meeting

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a public meeting of the Commerce Spectrum Management Advisory Committee (Committee). The Committee provides advice to the Assistant Secretary of Commerce for Communications and Information and the National Telecommunications and

Information Administration (NTIA) on spectrum management policy matters.

DATES: The meeting will be held on May 4, 2017, from 1:00 p.m. to 4:00 p.m., Eastern Daylight Time (EDT).

ADDRESSES: The meeting will be held at the National Association of Broadcasters, 1771 N Street NW., Washington, DC 20036. Public comments may be mailed to the Commerce Spectrum Management Advisory Committee, National Telecommunications and Information Administration, 1401 Constitution Avenue NW., Room 4600, Washington, DC 20230 or emailed to *dreed@ntia.doc.gov.*

FOR FURTHER INFORMATION CONTACT: David J. Reed, Designated Federal Officer, at (202) 482–5955 or *dreed@ntia.doc.gov;* and/or visit NTIA's Web site at *https://www.ntia.doc.gov/category/csmac.*

SUPPLEMENTARY INFORMATION: *Background:* The Committee provides advice to the Assistant Secretary of Commerce for Communications and Information on needed reforms to domestic spectrum policies and management in order to: License radio frequencies in a way that maximizes public benefits; keep wireless networks as open to innovation as possible; and make wireless services available to all Americans. *See* Charter at *https://www.ntia.doc.gov/files/ntia/publications/csmac_charter-2017.pdf.*

This Committee is subject to the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, and is consistent with the National Telecommunications and Information Administration Act, 47 U.S.C. § 904(b). The Committee functions solely as an advisory body in compliance with the FACA. For more information about the Committee visit: *https://www.ntia.doc.gov/category/csmac.*

Matters To Be Considered: The Committee provides advice to the Assistant Secretary to assist in developing and maintaining spectrum management policies that enable the United States to maintain or strengthen its global leadership role in the introduction of communications technology, services, and innovation; thus expanding the economy, adding jobs, and increasing international trade, while at the same time providing for the expansion of existing technologies and supporting the country's homeland security, national defense, and other critical needs of government missions. The Committee will discuss early observations and analyses of the topics and questions to be addressed for this session. NTIA will post a detailed agenda on its Web site, *https://www.ntia.doc.gov/category/csmac,* prior to the meeting. To the extent that time and the meeting agenda permit, any member of the public may speak to or otherwise address the Committee regarding the agenda items. *See Open Meeting and Public Participation Policy,* available at *https://www.ntia.doc.gov/category/csmac.*

Time and Date: The meeting will be held on May 4, 2017, from 1:00 p.m. to 4:00 p.m. EDT. The meeting time and the agenda topics are subject to change. The meeting will be available via two-way audio link and may be webcast. Please refer to NTIA's Web site, *https://www.ntia.doc.gov/category/csmac,* for the most up-to-date meeting agenda and access information.

Place: The meeting will be held at the National Association of Broadcasters, 1771 N Street NW., Washington, DC 20036. The meeting will be open to the public and members of the press on a first-come, first-served basis as space is limited. The public meeting is physically accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify Mr. Reed at (202) 482–5955 or *dreed@ntia.doc.gov* at least ten (10) business days before the meeting.

Status: Interested members of the public are invited to attend and to submit written comments to the Committee at any time before or after the meeting. Parties wishing to submit written comments for consideration by the Committee in advance of a meeting may send them via postal mail to Commerce Spectrum Management Advisory Committee, National Telecommunications and Information Administration, 1401 Constitution Avenue NW., Room 4600, Washington, DC 20230. It would be helpful if paper submissions also include a compact disc (CD) that contains the comments in Microsoft Word and/or PDF file formats. CDs should be labeled with the name and organizational affiliation of the filer. Alternatively, comments may be submitted via electronic mail to *dreed@ntia.doc.gov* and should also be in one or both of the file formats specified above. Comments must be received five (5) business days before the scheduled meeting date in order to provide sufficient time for review. Comments received after this date will be distributed to the Committee, but may not be reviewed prior to the meeting.

Records: NTIA maintains records of all Committee proceedings. Committee records are available for public inspection at NTIA's Washington, DC office at the address above. Documents including the Committee's charter, member list, agendas, minutes, and reports are available on NTIA's Web site at *https://www.ntia.doc.gov/category/csmac.*

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 2017–06736 Filed 4–4–17; 8:45 am]

BILLING CODE 3510–60–P

COUNCIL ON ENVIRONMENTAL QUALITY

Withdrawal of Final Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews

AGENCY: Council on Environmental Quality.

ACTION: Notice.

SUMMARY: The Council on Environmental Quality (CEQ) is withdrawing its ''Final Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews,'' for which a Notice of Availability was published on August 5, 2016. 81 FR 51866.

DATES: This withdrawal is effective April 5, 2017.

ADDRESSES: This Notice also will be made available on the National Environmental Policy Act (NEPA) Web site (*www.nepa.gov*), specifically at *https://ceq.doe.gov/.*

FOR FURTHER INFORMATION CONTACT: Council on Environmental Quality (ATTN: Ted Boling, Associate Director for the National Environmental Policy Act), 730 Jackson Place NW., Washington, DC 20503. Telephone: (202) 395–5750.

SUPPLEMENTARY INFORMATION: Enacted by Congress in 1969, NEPA, 42 U.S.C. 4321 *et seq.,* is this Nation's basic charter for harmonizing our environmental, economic, and social goals, and is a cornerstone of the Nation's efforts to protect the environment. As CEQ explained in its August 5, 2016, Notice of Availability, the withdrawn guidance was not a regulation. Pursuant to Executive Order 13783, ''Promoting Energy Independence and Economic Growth,'' signed on March 28, 2017, the guidance is being withdrawn for further consideration. The withdrawal of the guidance does not change any law, regulation, or other legally binding

requirement. For more information on NEPA and Federal agency compliance with NEPA, please see *https://ceq.doe.gov/index.html.*

(Authority: 42 U.S.C. 4332, 4342, 4344 and 40 CFR Parts 1500, 1501, 1502, 1503, 1505, 1506, 1507, and 1508)

Issued in Washington, DC, on March 31, 2017.

Mary B. Neumayr,

Chief of Staff, Council on Environmental Quality.

[FR Doc. 2017–06770 Filed 4–4–17; 8:45 am]

BILLING CODE 3225–F7–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Industry Information Day

AGENCY: DoD Chief Information Officer, DoD.

ACTION: Notice of meeting.

SUMMARY: DoD is hosting an ''Industry Information Day'' to present a briefing, and receive and address industry feedback on the implementation of Defense Federal Acquisition Regulation Supplement (DFARS) Case 2013–D018, ''*Network Penetration Reporting and Contracting for Cloud Services.*''

DATES: The public meeting will be held on Friday, June 23, 2017, from 9:00 a.m. to 1:00 p.m., EDT. Registration to attend this meeting must be received by Monday, June 12, 2017.

ADDRESSES: The public meeting will be held at the Mark Center Auditorium, 4800 Mark Center Drive, Alexandria, VA 22350–3603. The auditorium is located on level B–1 of the building.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Michetti, at (703) 604–3167.

SUPPLEMENTARY INFORMATION: DoD is hosting an ''Industry Information Day'' to present a briefing on the implementation of Defense Federal Acquisition Regulation Supplement (DFARS) Case 2013–D018, ''*Network Penetration Reporting and Contracting for Cloud Services,*'' and to receive feedback and address questions from industry regarding its implementation. Organizations are encouraged to submit questions in writing prior to the meeting. Questions should be sent by email to *OSD.DIBCSIAEvents@mail.mil* with the subject line of the email stating, ''Industry Information Day.'' Questions should be submitted by Monday, May 1, 2017 for consideration.

Background: On October 21, 2016, DoD published a final rule under DFARS Case 2013–D018 entitled ''*Network Penetration Reporting and Contracting for Cloud Services*'' (81 FR 72986–73001) that amended DFARS 204.73, ''Safeguarding Covered Defense Information and Cyber Incident Reporting,'' and included implementation of statutory cyber incident reporting requirements imposed by sections 391 and 393 of Title 10, United State Code (U.S.C.), and DFARS 239.76, ''Cloud Computing,'' to implement updated DoD policy and procedures for the acquisition of cloud computing services.

Registration: Individuals wishing to attend the public meeting should register by Monday, June 12, 2017, to ensure adequate room accommodations and to facilitate entry in the Mark Center building. Interested parties may register via email at, *OSD.DIBCSIAEvents@mail.mil.* Due to space constraints, organizations are limited to a maximum of two representatives and should provide the following information:

(1) Company or organization name; and

(2) Names and email addresses of persons planning to attend.

One valid government-issued photo identification card will be required in order to enter the building. Non-U.S. citizens must bring their Permanent Resident Card or Alien Registration Card and original Social Security card as identification. Attendees are encouraged to arrive at least one hour early to accommodate security procedures. Accommodations for parking at the Mark Center will not be available, but may be found in the surrounding areas. Transportation information for the Mark Center may be obtained at *http://www.whs.mil/our-services/transportation/getting-mark-center.*

Special accommodations: The public meeting is physically accessible to people with disabilities. Requests for reasonable accommodations, sign language interpretation, or other auxiliary aids should be sent via email to *OSD.DIBCSIAEvents@mail.mil* no later than Monday, June 12, 2017.

Correspondence: Please cite ''Industry Information Day'' in all correspondence related to this public meeting.

Dated: March 31, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–06739 Filed 4–4–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0006]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; 2008/18 Baccalaureate and Beyond (B&B: 08/18) Field Test

AGENCY: National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a reinstatement of a previously approved information collection.

DATES: Interested persons are invited to submit comments on or before May 5, 2017.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0006. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 224–84, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact NCES Information Collections at *NCES.Information.Collections@ed.gov.*

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is

soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: 2008/18 Baccalaureate and Beyond (B&B: 08/18) Field Test.

OMB Control Number: 1850–0729.

Type of Review: A reinstatement of a previously approved information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 4,242.

Total Estimated Number of Annual Burden Hours: 905.

Abstract: The Baccalaureate and Beyond Longitudinal Study (B&B), conducted by the National Center for Education Statistics (NCES), part of the U.S. Department of Education, examines students' education and work experiences after they complete a bachelor's degree, with a special emphasis on the experiences of school teachers. The B&B-eligible cohort is initially identified in the National Postsecondary Study Aid Study (NPSAS). The first cohort (B&B:93) was identified in NPSAS:93, and consisted of students who received their bachelor's degree in the 1992–93 academic year. The second cohort (B&B:2000) was selected from the NPSAS:2000, and the third cohort (B&B:08) was selected from NPSAS:2008, which became the base year for follow-up interviews in 2009 and 2012. The B&B:08/18 data collection will be the third and final follow-up for the third cohort of the B&B series (OMB# 1850–0729). The fourth cohort of baccalaureate recipients (B&B:16/17), identified in NPSAS:2016, is entering full-scale data collection in 2017 (OMB# 1850–0926). This request is to conduct the B&B:08/18 field test in 2017, which will collect data from B&B:08 sample members after they were first surveyed 10 years earlier. The B&B:08/18 field test includes several data collection experiments and will inform the materials and procedures for the full-scale B&B:08/18 to be conducted in 2018.

Dated: March 30, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–06664 Filed 4–4–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2016–ICCD–0148]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Migrant Education Program Regulations and Certificate of Eligibility

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before May 5, 2017.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2016–ICCD–0148. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 224–82, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Sarah Martinez, 202–260–1334.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Migrant Education Program Regulations and Certificate of Eligibility.

OMB Control Number: 1810–0662.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individual or Households; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 132,846.

Total Estimated Number of Annual Burden Hours: 564,400.

Abstract: This collection of information is necessary to collect information under the Title I, Part C Migrant Education Program (MEP). The MEP is authorized under sections 1301–1309 of Part C of Title I of the Elementary and Secondary Education Act (ESEA), as amended. Regulations for the MEP are found at 34 CFR 200.81–200.89. This information collection covers regulations with information collection requirements which pertain to information that State educational agencies (SEAs) must collect in order to properly administer the MEP: 34 CFR 200.83, 200.84, 200.88, and 200.89(b)–(d). Most provisions do not require SEAs to submit the information collected to the Department, with the exception of the provisions under 34 CFR 200.89(b).

The Department is requesting a revision to this currently approved information collection in order to address changes to MEP eligibility made

by the Every Student Succeeds Act (ESSA), which reauthorizes and amends the authorizing statute, ESEA. The changes to MEP eligibility criteria must be reflected on the national Certificate of Eligibility (COE), which is an information collection required by 34 CFR 200.89(c).

There was an overall reduction in SEA burden and responses. The reduction in burden and responses was achieved not as a result of deliberate Federal government action, but rather due to decreases in the number of eligible migratory children, the number of SEAs participating in the MEP, and the number of SEAs that the Department expects will be required to implement retrospective re-interviewing. The burden per respondent for the COE as described in 34 CFR 200.89(c) remains the same because although some additional burden is incurred as a result of the added questions (needed to demonstrate compliance with the new statutory language in ESSA), there was an equivalent reduction in burden achieved by the removal of previously included questions (which were needed to demonstrate compliance with the statute, prior to its amendment by ESSA). The annualized burden of 34 CFR 200.83, 200.84, and 200.88 was changed due to those costs occurring at least once per ESEA authorization period of four years (previously six years).

Dated: March 31, 2017.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–06694 Filed 4–4–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Revision of a Currently Approved Information Collection for the State Energy Program

AGENCY: Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy (DOE).

ACTION: Submission for Office of Management and Budget (OMB) review; public comment request.

SUMMARY: The Department of Energy (DOE) invites public comment on a revision of a currently approved collection of information that DOE is developing for submission to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995. The information collection requests a revision and three-year extension of its State Energy Program.

DATES: Comments regarding this revision to an approved information collection must be received on or before May 5, 2017. If you anticipate difficulty in submitting comments within that period, contact the person listed in **ADDRESSES** as soon as possible.

ADDRESSES: Written comments may be sent to: Sallie Glaize, EE–5W, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585; Email: *Sallie.Glaize@ee.doe.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to: Gregory Davoren, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585; Phone: (202) 287–1706; Fax: (412) 386–5835; Email: *Gregory.Davoren@ee.doe.gov*.

Additional information and reporting guidance concerning the State Energy Program (SEP) is available for review at the following Web site: *http://www1.eere.energy.gov/wip/sep.html*.

SUPPLEMENTARY INFORMATION: The proposed action will continue the collection of information on the status of grantee activities, expenditures, and results, to ensure that program funds are being used appropriately, effectively and expeditiously.

Comments are invited on: (a) Whether the revision of the currently approved 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 pertaining to the approved collection of information, including the validity of the methodology and assumptions used; (c) ways to further enhance the quality, utility, and clarity of the information being collected; and (d) ways to further minimize the burden regarding the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

This information collection request contains: (1) OMB No. 1910–5126; (2) Information Collection Request Title: State Energy Program; (3) Type of Review: Revision of a Currently Approved Information Collection; (4) Purpose: To collect information on the status of grantee activities, expenditures, and results, to ensure that program funds are being used appropriately, effectively and expeditiously; (5) Annual Estimated Number of Respondents: 56; (6) Annual Estimated Number of Total Responses: 224; (7) Annual Estimated Number of Burden Hours: 7,600; (8) Annual Estimated Reporting and Recordkeeping Cost Burden: $304,000.

Statutory Authority: Title V, Subtitle E of the Energy Independence and Security Act (EISA), Pub. L. 110–140, as amended (42 U.S.C. 17151 *et seq.*).

Issued in Washington, DC, February 28, 2017.

Gregory Davoren,

Lead Energy Project Specialist, Weatherization and Intergovernmental Program Office of Energy Efficiency and Renewable Energy.

[FR Doc. 2017–06478 Filed 4–4–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–211–D]

Application To Export Electric Energy; DTE Energy Trading, Inc.

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: DTE Energy Trading, Inc. (Applicant or DTE Energy Trading) has applied to renew its authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before May 5, 2017.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to 202–586–8008.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On July 13, 2012, DOE issued Order No. EA–211–C to DTE Energy Trading, which authorized the Applicant to transmit electric energy from the United States to Canada as a power marketer for a five-year term using existing

international transmission facilities. That authority expires on July 13, 2017. On March 13, 2017, DTE Energy Trading filed an application with DOE for renewal of the export authority contained in Order No. EA–211 for an additional five-year term.

In its application, DTE Energy Trading states that it does not own or operate any electric generation or transmission facilities, and it does not have a franchised service area. The electric energy that DTE Energy Trading proposes to export to Canada would be surplus energy purchased from third parties such as electric utilities and Federal power marketing agencies pursuant to voluntary agreements. The existing international transmission facilities to be utilized by TPS have previously been authorized by Presidential Permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning DTE Energy Trading's application to export electric energy to Canada should be clearly marked with OE Docket No. EA–211–D. An additional copy is to be provided directly to both Cynthia Klots, DTE Energy Trading, Inc., 414 S. Main Street, Suite 200, Ann Arbor, MI 48104 and Jane E. Rueger, White & Case LLP, 701 13th St. NW., Washington, DC 20005.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov.*

Issued in Washington, DC, on March 21, 2017.

Christopher Lawrence,

Electricity Policy Analyst, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2017–06731 Filed 4–4–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. BC–001]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver to Dyson, Inc. From the Department of Energy Battery Charger Test Procedure

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

ACTION: Decision and order.

SUMMARY: The U.S. Department of Energy (DOE) gives notice of a decision and order (Case No. BC–001) that grants to Dyson, Inc. (Dyson) a waiver from the DOE test procedure for determining the energy consumption of battery chargers. Under this decision and order, Dyson is required to test and rate the battery charger used in its robotic vacuum cleaner model RB01, marketed as the Dyson 360-Eye (Robot) using an alternate test procedure to turn off functions not associated with the battery charging process during the charge and maintenance mode test by isolating a terminal of the battery pack using isolating tape when measuring energy consumption.

DATES: This Decision and Order is effective April 5, 2017.

FOR FURTHER INFORMATION CONTACT: Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Program, Mail Stop EE–5B, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–0371. Email: *AS_Waiver_Requests@ee.doe.gov.*

Mr. Peter Cochran, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–33, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0103. Telephone: (202) 586–9496. Email: *Peter.Cochran@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: In accordance with Title 10 of the Code of Federal Regulations (10 CFR 430.27(f)(2)), DOE gives notice of the issuance of its decision and order as set forth below. The decision and order grants Dyson a waiver from the applicable battery charger test procedure in 10 CFR part 430, subpart B, appendix Y for the battery charger used in their robotic vacuum cleaner model RB01, marketed as the Dyson 360-Eye (''Robot''), provided that Dyson tests and rates such products using the alternate test procedure described in this notice. Dyson's representations concerning the energy efficiency of this product must be based on testing consistent with the provisions and restrictions in the alternate test procedure set forth in the decision and order below, and the representations must fairly disclose the test results. Distributors, retailers, and private labelers are held to the same standard when making representations regarding the energy efficiency of these products. (42 U.S.C. 6293(c))

Not later than June 5, 2017, any manufacturer currently distributing in commerce in the United States a product employing a technology or characteristic that results in the same need for a waiver from the battery charger test procedure must submit a petition for waiver. 10 CFR 430.27(j). Manufacturers not currently distributing such products in commerce in the United States must petition for and be granted a waiver prior to distribution in commerce in the United States. Manufacturers may also submit a request for interim waiver pursuant to the requirements of 10 CFR 430.27.

Issued in Washington, DC, on March 27, 2017.

Steven G. Chalk,

Acting Assistant Secretary, Energy Efficiency and Renewable Energy.

Decision and Order

In the Matter of: Dyson, Inc. (Case No. BC–001)

I. Background and Authority

Title III, Part B [1] of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94–163 (42 U.S.C. 6291–6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program that includes battery chargers.[2] Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B

[1] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated as Part A.

[2] All references to EPCA in this document refer to the statute as amended through the Energy Efficiency Improvement Act of 2015 (EEIA), Public Law 114–11 (April 30, 2015).

authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results that measure energy efficiency, energy use, or estimated operating costs during a representative average-use cycle, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for battery chargers is contained in Title 10 of the Code of Federal Regulations (CFR) part 430, subpart B, appendix Y, *Uniform Test Method for Measuring the Energy Consumption of Battery Chargers.*

The regulations set forth in 10 CFR 430.27 contain provisions that allow a person to seek a waiver from the test procedure requirements for a particular basic model of a type of covered product when the petitioner's basic model for which the petition for waiver was submitted contains one or more design characteristics that: (1) Prevent testing according to the prescribed test procedure, or (2) cause the prescribed test procedures to evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1).DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(f)(2).

II. Dyson's Petition for Waiver: Assertions and Determinations

On April 7, 2016, Dyson filed a petition for waiver from the DOE test procedure for battery chargers under 10 CFR 430.27 for the battery charger used in their robotic vacuum cleaner model RB01, marketed as the Dyson 360-Eye (Robot), which is required to be tested using the DOE battery charger test procedure at 10 CFR 430.23(aa) and detailed at 10 CFR part 430, subpart B, appendix Y. In its petition, Dyson asks that the requirement contained in the DOE test procedure for battery chargers provided in 10 CFR part 430, subpart B, appendix Y, section 4.4, *Limiting Other Non-Battery-Charger Functions,* be waived with regard to testing of the Robot battery charger. According to subsection 4.4.b (and a related provision at section 5.6.c.1), any function controlled by the user and not associated with the battery charging process must be switched off or be set to the lowest power-consuming mode.

Dyson asserts that in order to provide the user with the advanced setting and management features of the Robot, the relevant functionalities and circuitry have to be powered at all times. Accordingly, Dyson does not believe it appropriate to make these functions, which are not associated with the battery charging process, user controllable because they are an integral part of the Robot itself. Therefore, in order to ascertain the true energy consumption characteristics of the battery charger during the test, Dyson seeks permission to switch off these functions by a means that is not controlled by the user.

Dyson also requested an interim waiver from the existing DOE test procedure, which DOE granted. See 81 FR at 62489. After reviewing the alternate procedure suggested by Dyson, DOE granted the interim waiver because DOE determined that Dyson's petition for waiver will likely be granted and decided that it was desirable for public policy reasons to grant Dyson immediate relief pending a determination on the petition for waiver. Dyson's petition was published in the **Federal Register** on September 9, 2016. 81 FR 62489. DOE received no comments regarding Dyson's petition.

On May 20, 2016, DOE published a test procedure final rule that adopted amendments to the battery charger test procedure found in Appendix Y. 81 FR 31827. Subsequently, on December 12, 2016, DOE issued a separate final rule to add a discrete test method for uninterruptible power supplies to the battery charger test procedure. 81 FR 89806. Neither of these final rules amended the provisions of the battery charger test procedure from which Dyson sought a waiver. Since the amendments in these final rules did not address the issues presented in the waiver petition, Dyson's interim waiver has remained in effect while DOE has evaluated the waiver petition. 10 CFR 430.27(h).

III. Consultations With Other Agencies

DOE consulted with the Federal Trade Commission (FTC) staff concerning the Dyson petition for waiver. The FTC staff did not have any objections to granting a waiver to Dyson.

IV. Order

After careful consideration of all the material that was submitted by Dyson and consultation with the FTC staff, in accordance with 10 CFR 430.27, it is *ordered* that:

(1) The petition for waiver submitted by the Dyson Inc. (Case No. BC–001) is hereby granted as set forth in the paragraphs below.

(2) Dyson must test and rate the Dyson basic models specified in paragraph (3) on the basis of the current test procedure contained in 10 CFR part 430, subpart B, appendix Y, except that Dyson, notwithstanding the instructions in Appendix Y sections 3.2.4 and 3.3.6, may disable power to functions not associated with the battery charging process by isolating a terminal of the battery pack using isolating tape, as shown in the Appendices to the petition for waiver.

(3) This order applies only to the following basic model: RB01, marketed as the Dyson 360-Eye (''Robot''), battery charger.

(4) This waiver shall remain in effect consistent with the provisions of 10 CFR 430.27.

Issued in Washington, DC, on March 27, 2017.

Steven G. Chalk,

Acting Assistant Secretary, Energy Efficiency and Renewable Energy

[FR Doc. 2017–06732 Filed 4–4–17; 8:45 am]

BILLING CODE –P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–1005; FRL–9960–77]

Chlorpyrifos; Order Denying PANNA and NRDC's Petition To Revoke Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Order.

SUMMARY: In this Order, EPA denies a petition requesting that EPA revoke all tolerances for the pesticide chlorpyrifos under section 408(d) of the Federal Food, Drug, and Cosmetic Act and cancel all chlorpyrifos registrations under the Federal Insecticide, Fungicide and Rodenticide Act. The petition was filed in September 2007 by the Pesticide Action Network North America (PANNA) and the Natural Resources Defense Council (NRDC).

DATES: This Order is effective April 5, 2017. Objections and requests for hearings must be received on or before June 5, 2017, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I. of the **SUPPLEMENTARY INFORMATION**.)

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2007–1005, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal

holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 347–0206; email address: *OPPChlorpyrifosInquiries@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

In this document EPA denies a petition by PANNA and the NRDC to revoke pesticide tolerances and cancel pesticide registrations. This action may also be of interest to agricultural producers, food manufacturers, or pesticide manufacturers. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (North American Industrial Classification System (NAICS) code 111), *e.g.,* agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), *e.g.,* cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), *e.g.,* agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), *e.g.,* agricultural workers; commercial applicators; farmers, greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The NAICS codes have been provided to assists you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get copies of this document and other related information?

EPA has established a docket for this action under Docket ID No. EPA–HQ–OPP–2007–1005. Additional information relevant to this action is located in the chlorpyrifos registration review docket under Docket ID No, EPA–HQ–OPP–2008–0850 and the chlorpyrifos tolerance rulemaking docket under Docket ID No, EPA–HQ–OPP–2015–0653. To access the electronic docket, go to *http://www.regulations.gov,* select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov Web site to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m. Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

C. Can I file an objection or hearing request?

Under section 408(g) of the Federal Food, Drug and Cosmetic Act (FFDCA) (21 U.S.C. 346a(g)), any person may file an objection to any aspect of this order and may also request a hearing on those objections. You must file your objection or request a hearing on this order in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2007–1005 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before June 5, 2017, and may be submitted by one of the following methods:

- *Mail:* U.S. EPA Office of Administrative Law Judges, Mailcode 1900R, 1200 Pennsylvania Ave. NW., Washington, DC 20460
- *Hand Delivery:* U.S. Environmental Protection Agency Office of Administrative Law Judges, Ronald Reagan Building, Rm. M1200, 1300 Pennsylvania Ave. NW., Washington, DC 20004. Deliveries are only accepted during the Office's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Office's telephone number is (202) 564–6255.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain CBI for inclusion in the public docket that is described in I.B.1 above. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2007–1005, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* U.S. Environmental Protection Agency Office of Pesticide Programs (OPP) Public Regulatory Docket (7502P), 1200 Pennsylvania, Ave. NW., Washington, DC 20460–0001.
- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

D. What should be included in objections?

The objection stage is the second stage in the petition process under FFDCA section 408. This multi-stage process is initiated by a petition requesting establishment, modification, or revocation of a tolerance. Once EPA makes a decision on a petition, and publishes its decision in the **Federal Register**, the second stage of the petition process is triggered. At this point, parties who disagree with EPA's decision, whether it is a decision to grant or deny the petition, may file objections with EPA to the decision made. The objection stage gives parties a chance to seek review of EPA's decision before the Agency. This is an opportunity for parties to contest the conclusions EPA reached and the determinations underlying those conclusions. As an administrative review stage, it is not an opportunity to raise new issues or arguments or present facts or information that were available earlier. On the other hand, parties must do more than repeat the claims in the petition. The objection stage is the opportunity to challenge EPA's decision on the petition. An objection fails on its

face if it does not identify aspects of EPA's decision believed to be in error and explain the reason why EPA's decision is incorrect. This two-stage process insures that issues are fully aired before the Agency and a comprehensive record is compiled, prior to judicial review.

II. Introduction

A. What action is the Agency taking?

In this document, EPA denies a petition by PANNA and the NRDC. In a petition dated September 12, 2007, PANNA and NRDC (the petitioners) requested that EPA revoke all tolerances for the pesticide chlorpyrifos established under section 408 of the FFDCA. (Ref. 1) The petition also sought the cancellation of all chlorpyrifos pesticide product registrations under section 6 the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. 136d. The PANNA and NRDC petition (the Petition) raised the following claims regarding EPA's reregistration and active registrations of chlorpyrifos in support of the request for tolerance revocation and product cancellation:

1. EPA has ignored genetic evidence of vulnerable populations.
2. EPA has needlessly delayed a decision regarding endocrine disrupting effects.
3. EPA has ignored data regarding cancer risks.
4. EPA's 2006 cumulative risk assessment (CRA) for the organophosphates misrepresented risks and failed to apply FQPA 10X safety factor. [For convenience's sake, the legal requirements regarding the additional safety margin for infants and children in section 408(b)(2)(C) of the FFDCA are referred to throughout this response as the ''FQPA 10X safety factor'' or simply the ''FQPA safety factor.'' Due to Congress' focus on both pre- and post-natal toxicity, EPA has interpreted this additional safety factor as pertaining to risks to infants and children that arise due to pre-natal exposure as well as to exposure during childhood years.]
5. EPA has over-relied on registrant data.
6. EPA has failed to properly address the exporting hazard in foreign countries from chlorpyrifos.
7. EPA has failed to quantitatively incorporate data demonstrating long-lasting effects from early life exposure to chlorpyrifos in children.
8. EPA has disregarded data demonstrating that there is no evidence of a safe level of exposure during pre-birth and early life stages.
9. EPA has failed to cite or quantitatively incorporate studies and clinical reports suggesting potential adverse effects below 10% cholinesterase inhibition.
10. EPA has failed to incorporate inhalation routes of exposure.

In this order EPA is denying the Petition in full. EPA provided the petitioners with two interim responses on July 16, 2012, and July 15, 2014, respectively. The July 16, 2012, response denied claim 6 (export hazard) completely and that portion of the response was a final agency action. The remainder of the July 16, 2012, response and the July 15, 2014, response expressed EPA's intention to deny six other petition claims (1–5 and 10). [In the 2012 response, EPA did, however, inform petitioners of its approval of label mitigation (in the form of rate reductions and spray drift buffers) to reduce bystander risks, including risks from inhalation exposure, which in effect partially granted petition claim 10.] EPA made clear in both the 2012 and 2014 responses that, absent a request from petitioners, EPA's denial of those six claims would not be made final until EPA finalized its response to the entire Petition. Petitioners made no such request. EPA is finalizing its denial of those six claims in this order.

The remaining claims (7–9) all related to same issue: Whether the potential exists for chlorpyrifos to cause neurodevelopmental effects in children at exposure levels below EPA's existing regulatory standard (10% cholinesterase inhibition). While these claims raised novel, highly complex and unresolved scientific issues, EPA decided it would nonetheless expedite the registration review of chlorpyrifos under FIFRA section 3(g), and attempt to address these issues several years in advance of the October 1, 2022 deadline for completing that review. Accordingly, EPA also decided as a policy matter that it would address the Petition claims raising these matters on a similar timeframe. Although EPA had expedited its registration review to address these issues, the petitioners were not satisfied with EPA's progress in responding to the Petition and they brought legal action in the 9th Circuit Court of Appeals to compel EPA to either issue an order denying the Petition or to grant the Petition by initiating the tolerance revocation process. In August 2015, the 9th Circuit issued a ruling in favor of the petitioners and ordered EPA to respond to the Petition by either denying the Petition or issuing a proposed or final rule revoking chlorpyrifos tolerances. *In re Pesticide Action Network of North America* v. *EPA,* 798 F.3d (9th Cir. 2015).

On November 6, 2015, pursuant to the 9th Circuit's order, EPA proposed to revoke all chlorpyrifos tolerances based in part on uncertainty surrounding the potential for chlorpyrifos to cause neurodevelopmental effects—the issue raised in petition claims 7–9. Following publication of the proposal, the 9th Circuit announced that it would retain jurisdiction over this matter and on August 12, 2016, the court further ordered EPA to complete a final petition response by March 31, 2017 and made clear that no further extensions would be granted. On November 17, 2016, EPA published a notice of data availability that released for public comment EPA's revised risk assessment that proposed a new regulatory point of departure based on the potential for chlorpyrifos to result in adverse neurodevelopmental effects.

Following a review of comments on both the November 2015 proposal and the November 2016 notice of data availability, EPA has concluded that, despite several years of study, the science addressing neurodevelopmental effects remains unresolved and that further evaluation of the science during the remaining time for completion of registration review is warranted to achieve greater certainty as to whether the potential exists for adverse neurodevelopmental effects to occur from current human exposures to chlorpyrifos. EPA has therefore concluded that it will not complete the human health portion of the registration review or any associated tolerance revocation of chlorpyrifos without first attempting to come to a clearer scientific resolution on those issues. As noted, Congress has provided that EPA must complete registration review by October 1, 2022. Because the 9th Circuit's August 12, 2016 order has made clear, however, that further extensions to the March 31, 2017 deadline for responding to the Petition would not be granted, EPA is today also denying all remaining petition claims.

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

Under section 408(d)(4) of the FFDCA, EPA is authorized to respond to a section 408(d) petition to revoke tolerance either by issuing a final rule revoking the tolerances, issuing a proposed rule, or issuing an order denying the Petition.

III. Statutory and Regulatory Background

A. FFDCA/FIFRA and Applicable Regulations

1. *In general.* EPA establishes maximum residue limits, or ''tolerances,'' for pesticide residues in food and feed commodities under section 408 of the FFDCA. Without such a tolerance or an exemption from the requirement of a tolerance, a food containing a pesticide residue is ''adulterated'' under section 402 of the FFDCA and may not be legally moved in interstate commerce. Section 408 was substantially rewritten by the Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170, 110 Stat. 1489 (1996)), which established a detailed safety standard for pesticides and integrated EPA's regulation of pesticide food residues under the FFDCA with EPA's registration and re-evaluation of pesticides under FIFRA. The standard for issuing or maintaining a tolerance under section 408(b)(2)(A)(i) of the FFDCA is whether it is ''safe.'' ''Safe'' is defined by section 408(b)(2)(A)(ii) to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.''

While the FFDCA authorizes the establishment of legal limits for pesticide residues in food, section 3(a) of FIFRA requires the approval of pesticides prior to their sale and distribution, and establishes a registration regime for regulating the use of pesticides. FIFRA regulates pesticide use in conjunction with its registration scheme by requiring EPA review and approval of pesticide labels and specifying that use of a pesticide inconsistent with its label is a violation of federal law. In the FQPA, Congress integrated action under the two statutes by requiring that the safety standard under the FFDCA be used as a criterion in FIFRA registration actions as to pesticide uses which result in dietary risk from residues in or on food, (*see* FIFRA section 2(bb)), and directing that EPA coordinate, to the extent practicable, revocations of tolerances with pesticide cancellations under FIFRA. (*See* FFDCA section 408(l)(1).) Under section 3(g) of FIFRA, EPA is required to re-evaluate pesticides under the FIFRA standard—which includes a determination regarding the safety of existing FFDCA tolerances—every 15 years under a program known as ''registration review.'' The deadline for completing the registration review for chlorpyrifos is October 1, 2022.

2. *Procedures for establishing, amending, or revoking tolerances.* Tolerances are established, amended, or revoked by rulemaking under the unique procedural framework set forth in the FFDCA. Generally, a tolerance rulemaking is initiated by the party seeking to establish, amend, or revoke a tolerance by means of filing a petition with EPA. (*See* FFDCA section 408(d)(1).) EPA publishes in the **Federal Register** a notice of the petition filing and requests public comment. After reviewing the petition, and any comments received on it, section 408(d)(4) provides that EPA may issue a final rule establishing, amending, or revoking the tolerance, issue a proposed rule to do the same, or deny the petition.

Once EPA takes final action on the petition by establishing, amending, or revoking the tolerance or denying the petition, section 408(g)(2) allows any party to file objections with EPA and seek an evidentiary hearing on those objections. Objections and hearing requests must be filed within 60 days. Section 408(g)(2)(B) provides that EPA shall ''hold a public evidentiary hearing if and to the extent the Administrator determines that such a public hearing is necessary to receive factual evidence relevant to material issues of fact raised by the objections.'' EPA regulations make clear that hearings will only be granted where it is shown that there is ''a genuine and substantial issue of fact,'' the requestor has identified evidence 'which ''would, if established, resolve one or more of such issues in favor of the requestor,'' and the issue is ''determinative'' with regard to the relief requested. (40 CFR 178.32(b).) Further, a party may not raise issues in objections unless they were part of the petition and an objecting party must state objections to the EPA decision and not just repeat the allegations in its petition. *Corn Growers* v. *EPA,* 613 F.2d 266 (D.C. Cir. 2010), cert. denied, 131 S. Ct. 2931 (2011). EPA's final order on the objections is subject to judicial review. (21 U.S.C. 346a(h)(1).)

IV. Chlorpyrifos Regulatory Background

Chlorpyrifos (0,0-diethyl-0-3,5,6-trichloro-2-pyridyl phosphorothioate) is a broad-spectrum, chlorinated organophosphate (OP) insecticide that has been registered for use in the United States since 1965. By pounds of active ingredient, it is the most widely used conventional insecticide in the country. Currently registered use sites include a large variety of food crops (including tree fruits and nuts, many types of small fruits and vegetables, including vegetable seed treatments, grain/oilseed crops, and cotton, for example), and non-food use settings (*e.g.,* ornamental and agricultural seed production, non-residential turf, industrial sites/rights of way, greenhouse and nursery production, sod farms, pulpwood production, public health and wood protection). For some of these crops, chlorpyrifos is currently the only cost-effective choice for control of certain insect pests. In 2000, the chlorpyrifos registrants reached an agreement with EPA to voluntarily cancel all residential use products except those registered for ant and roach baits in child-resistant packaging and fire ant mound treatments.

In 2006, EPA completed FIFRA section 4 reregistration and FFDCA tolerance reassessment for chlorpyrifos and the OP class of pesticides. Having completed reregistration and tolerance reassessment, EPA is required to complete the next re-evaluation of chlorpyrifos under the FIFRA section 3(g) registration review program by October 1, 2022. Given ongoing scientific developments in the study of the OPs generally, in March 2009 EPA announced its decision to prioritize the FIFRA section 3(g) registration review of chlorpyrifos by opening a public docket and releasing a preliminary work plan to complete the chlorpyrifos registration review by 2015—7 years in advance of the date required by law.

The registration review of chlorpyrifos and the OPs has presented EPA with numerous novel scientific issues that the agency has taken to multiple FIFRA Scientific Advisory Panel (SAP) meetings since the completion of reregistration. [The SAP is a federal advisory committee created by section 25(d) of FIFRA, that serves as EPA's primary source of peer review for significant regulatory and policy matters involving pesticides.] Many of these complex scientific issues formed the basis of the 2007 petition filed by PANNA and NRDC and EPA therefore decided to address the Petition on a similar timeframe to EPA's expedited registration review schedule.

Although EPA expedited the chlorpyrifos registration review in an attempt to address the novel scientific issues raised by the Petition in advance of the statutory deadline, the petitioners were dissatisfied with the pace of EPA's response efforts and have sued EPA in federal court on three separate occasions to compel a faster response to the Petition. As explained in Unit V., EPA had addressed 7 of the 10 claims asserted in the Petition by either

denying the claim, issuing a preliminary denial or approving label mitigation to address the claims, but on June 10, 2015, in the *PANNA* decision, the U.S. Court of Appeals for the Ninth Circuit signaled its intent to order EPA to complete its response to the Petition and directed EPA to inform the court how—and by when—EPA intended to respond. On June 30, 2015, EPA informed the court that it intended to propose by April 15, 2016, the revocation of all chlorpyrifos tolerances in the absence of pesticide label mitigation that ensures that exposures will be safe. On August 10, 2015, the court rejected EPA's time line and issued a mandamus order directing EPA to ''issue either a proposed or final revocation rule or a full and final response to the administrative Petition by October 31, 2015.''

On October 30, 2015, EPA issued a proposed rule to revoke all chlorpyrifos tolerances which it published in the **Federal Register** on November 6, 2015 (80 FR 69080). On December 10, 2015, the Ninth Circuit issued a further order requiring EPA to complete any final rule (or petition denial) and fully respond to the Petition by December 30, 2016. On June 30, 2016, EPA sought a 6-month extension to that deadline in order to allow EPA to fully consider the most recent views of the FIFRA SAP with respect to chlorpyrifos toxicology. The FIFRA SAP report was finalized and made available for EPA consideration on July 20, 2016. (Ref. 2) On August 12, 2016, the court rejected EPA's request for a 6-month extension and ordered EPA to complete its final action by March 31, 2017 (effectively granting EPA a three-month extension). On November 17, 2016, EPA published a notice of data availability (NODA) seeking public comment on both EPA's revised risk and water assessments and reopening the comment period on the proposal to revoke all chlorpyrifos (81 FR 81049). The comment period for the NODA closed on January 17, 2017.

V. Ruling on Petition

This order denies the Petition on the nine remaining grounds for which EPA has not issued a final denial that can be the subject of objections under section 408(g)(2) of the FFDCA. As noted in Unit II, on July 16, 2012, EPA denied as final agency action petitioners' claim 6 that the registration of chlorpyrifos created an export hazard for workers in foreign countries. That response and the response of July 15, 2014, also included EPA's preliminary denial of petition claims 1–5 and 10 (except to the extent EPA granted that claim) and EPA's responses to those claims are now incorporated into this order as set forth below. This unit also includes EPA's basis for denying petition claims 7–9. Each specific petition claim is summarized in this Unit V. immediately prior to EPA's response to the claim.

1. Genetic Evidence of Vulnerable Populations

a. Petitioners' claim. Petitioners claim that as part of EPA's reregistration decision (which was completed in 2006 with the completion of the organophosphate cumulative risk assessment) the Agency failed to calculate an appropriate intra-species uncertainty factor (*i.e.,* within human variability) for chlorpyrifos in both its aggregate and cumulative risk assessments (CRA). They assert that certain relevant, robust data, specifically the Furlong et al. (2006) study (Ref. 3) that addresses intra-species variability in the behavior of the detoxifying enzyme paraoxonase (PON1), indicate that the Agency should have applied an intra-species safety factor ''of at least 150X in the aggregate and cumulative assessments'' rather than the 10X factor EPA applied. Petitioners conclude by noting that applying an intra-species factor of 100X or higher would require setting tolerances below the level of detection, which therefore should compel EPA to revoke all chlorpyrifos tolerances.

b. Agency Response. Petitioners are correct that the Agency, as part of the 2006 OP CRA, evaluated, but did not rely on Furlong et al. in setting the intra-species uncertainty factor for that assessment. The Agency did not rely on the results of the PON1 data in the OP CRA because these data do not take into consideration the complexity of OP metabolism, which involves multiple metabolic enzymes, not just PON1. In addition, EPA believes the methodology utilized in the Furlong et al. study to measure intra-species variability—*i.e.,* combining values from multiple species (transgenic mice and human) to determine the range of sensitivity within a single species—is not consistent with well-established international risk assessment practices. Further, EPA believes that petitioners' assertion that the Furlong et al. study supports an intra-species uncertainty factor of at least 150X is based on an analysis of the data that is inconsistent with EPA policy and widely-accepted international guidance on the development of intra-species uncertainty factors. In addition, the 2008 FIFRA SAP did not support the use of the Furlong et al (2006) study alone in deriving an intra-species factor. For these reasons, and as further explained below, EPA believes it is not appropriate to solely rely on the results of the Furlong et al. study, or petitioners' interpretation of those results, for purposes of determining the intra-species uncertainty factor. To determine that factor, EPA first uses science tools to quantitatively characterize human variability in both exposure and dosimetry, and then determines the appropriate intra-species uncertainty factor to protect sensitive populations. Specifically, for chlorpyrifos, EPA uses a physiologically-based pharmacokinetic (PBPK) model to account for human variability in the absorption, distribution, metabolism and excretion (ADME) of chemicals based on key physiological, biochemicals, and physicochemical determinants of these ADME processes, including the influence of PON1 variability.

Addressing human variability and sensitive populations is an important aspect of the Agency's risk assessment process. The Agency is well aware of the issue of PON1 and has examined the scientific evidence on this source of genetic variability. PON1 is one of the key detoxification enzymes of chlorpyrifos and is included as part of the PBPK model used by EPA in the 2014 human health risk assessment (HHRA) and 2016 revised risk assessment. Specifically, PON1 is an A-esterase which can metabolize chlorpyrifos-oxon without inactivating the enzyme. (Ref. 4) Indeed, as part of the 2008 SAP, EPA performed a literature review of PON1 and its possible use in informing the intra-species (*i.e.,* within human variability) uncertainty factor. This literature review can be found in the draft Appendix E: Data Derived Extrapolation Factor Analysis to the draft Science Issue Paper: Chlorpyrifos Hazard and Dose Response Characterization. (Ref. 5) In sum, the Agency considered available PON1 data from more than 25 studies from diverse human populations worldwide.

The Agency focused on the PON1–192 polymorphism since it has been linked to chlorpyrifos-oxon sensitivity in experimental toxicology studies and, has been evaluated in epidemiology studies attempting to associate PON1 status with health outcomes following OP pesticide exposure in adults and children (Holland et al., 2006; Chen et al., 2003. (Ref. 6). [Note, Holland et al. (2006) and Furlong et al. (2006) report findings from the same cohort. The Holland reference provides enzymes activities for specific polymorphisms in Table 4; the Furlong paper does not report such values and provides

information primarily in graphical form.] However, EPA believes that focusing on PON1 variability in isolation from other metabolic action is not an appropriate approach for developing a data-driven uncertainty factor. The Agency solicited feedback from the SAP on the utility of the PON1 data, by itself, for use in risk assessment; the SAP was similarly not supportive of using such data in isolation. Specifically, the SAP report states:

. . . the information on PON1 polymorphisms should not be used as the sole factor in a data-derived uncertainty factor for two main reasons: (1) it is only one enzyme in a complex pathway, and is subsequent to the bioactivation reaction; therefore it can only function on the amount of bioactivation product (i.e., chlorpyrifos-oxon) that is delivered to it by CYP450); and (2) the genotype of PON1 alone is insufficient to predict vulnerability because the overall level of enzyme activity is ultimately what determines detoxification potential from that pathway; thus, it is better to use PON1 status because it provides information regarding PON1 genotype and activity. Some of the data from laboratory animal studies in PON knockout animals are using an unrealistic animal model and frequently very high dose levels, and do not reflect what might happen in humans. (Ref. 7)

Based on a detailed review of the literature and the comments from the SAP, the Agency has determined that such data are not appropriate for use alone in deriving an intra-species uncertainty factor for use in human health risk assessment. As indicated by the SAP report, multiple factors (*e.g.,* other enzymes such as P450s, carboxylesterases, butyrylcholinesterase) are likely to impact potential population sensitivity, rendering the results of the PON1 data, by themselves, insufficiently reliable to support a regulatory conclusion about the potential variation of human sensitivity to chlorpyrifos.

Since the 2008 SAP, several epidemiological studies have been published that considered the association between PON status/genotype and health outcome. Hofmann et al. (2009) recently reported associations between PON1 status and inhibition of butyrylcholinesterase (BuChE) in a group of pesticide handlers in Washington. The authors note that this study requires replication with larger sample size(s) and more blood samples. (Ref. 8) Given the limitations of Hofmann et al., the Agency has not drawn any conclusions from this study. The Q/R–192 and/or C/T–108 polymorphism at the promoter site have been evaluated recently as a factor affecting birth or neurobehavioral outcomes following gestational exposure to OPs. (Refs. 9, 10, 11) These studies (Eskanazi., et al., 2010 (Ref. 9); Harley et al., 2011 (Ref. 10); Engel et al., 2011 (Ref. 11)) were evaluated by EPA in preparation for the April 2012 SAP review.

Petitioners further emphasize that the Furlong et al. study supports an intra-species uncertainty factor of over 164X given the range of variability seen in that study. The 164X value is derived from sensitivity observed in transgenic mice expressing human PON1Q–192 compared with mice expressing human PON1R–192 combined with the range of plasma arylesterase (AREase) from the newborn with the lowest PON1 level compared with the mother with the highest PON1 level from a group of 130 maternal-newborn pairs from the CHAMACOS (Center for the Health Assessment of Mothers and Children of Salinas) cohort.

EPA believes it is fundamentally at odds with international risk assessment practices to combine values from both mouse and human data to determine the potential range of variability within a single species—regardless of whether the test animals express a human PON1 enzyme. As the 2008 FIFRA SAP explained, PON1 is but a single enzyme that should not be considered in isolation to predict the overall level of enzyme activity that may affect human sensitivity to a substance. Using a 164X intra-species uncertainty factor derived from the Furlong et al. study would take this practice one step further by relying upon combined PON1 values from different species with differing overall metabolic activity to derive the intra-species factor. EPA does not believe this approach is an appropriate means of determining the potential range of intra-species variability.

Finally, petitioners' assertion that the Furlong study supports an intra-species uncertainty factor of at least 150X is based on an analysis of that study that is inconsistent with EPA policy and widely-accepted international guidance on the development of intra-species uncertainty factors. In deriving the intra-species uncertainty factor in its risk assessments, EPA is guided by the principles of the 2005 IPCS (Ref. 12) guidance on chemical specific adjustment factors (CSAFs) and the EPA's 2014 Guidance for Applying Quantitative Data to Develop Data-Derived Extrapolation Factors for Interspecies and Intraspecies Extrapolation. (Ref. 13) These guidances recommend that intra-species factors should be extrapolated from a measure of central tendency in the population to a measure in the sensitive population (*i.e.,* to extrapolate from a typical human to a sensitive human). To base the factor on the difference between the single lowest and highest measurements in a given study, as petitioners suggest in this instance, would likely greatly exaggerate potential intra-species variability. That approach effectively assumes that the point of departure in an EPA risk assessment will be derived from the least sensitive test subject, thereby necessitating the application of an intra-species factor that accounts for the full range of sensitivity across a species. Since EPA does not develop its PoDs in this fashion; the approach suggested by petitioners is not appropriate.

In summary, the Agency has carefully considered the issue of PON1 variability and determined that data addressing PON1 in isolation are not appropriate for use alone in deriving an intra-species uncertainty factor and that the issue is more appropriately handled using a PBPK model. Further, the derivation of the 164X value advocated by the petitioners is based on combining values from humanized mice with human measured values with a range from highest to lowest; the Furlong et al. derivation is inappropriate and inconsistent with international risk assessment practice. (Ref. 2) The 2008 FIFRA SAP did not support the PON1 data used in isolation. Finally, petitioners' statement that the Furlong et al. study supports an intra-species uncertainty factor of at least 150X likely overstates potential variability. EPA therefore denies this aspect of the Petition.

2. Endocrine Disrupting Effects

a. Petitioners' claim. Petitioners summarize a number of studies evaluating the effects of chlorpyrifos on the endocrine system, asserting that, taken together, the studies ''suggest that chlorpyrifos may be an endocrine disrupting chemical, capable of interfering with multiple hormones controlling reproduction and neurodevelopment.'' The petitioners then assert that EPA should not have delayed consideration of endocrine effects absent finalization of the Endocrine Disruptor Screening Program (EDSP) (Ref. 14) and should have quantitatively incorporated the studies into the chlorpyrifos IRED.

b. Agency Response. This portion of the Petition appears largely to be a complaint about the completeness of EPA's reregistration decision and a request that EPA undertake quantitative incorporation of endocrine endpoints into its assessment of chlorpyrifos. The Petition does not explain whether and

how endocrine effects should form the basis of a decision to revoke tolerances. The basis for seeking revocation of a tolerance is a showing that the pesticide is not ''safe.'' Petitioners have neither asserted that EPA should revoke tolerances because effects on the endocrine system render the tolerances unsafe, nor have petitioners submitted a factual analysis demonstrating that aggregate exposure to chlorpyrifos presents an unsafe risk to humans based on effects on the endocrine system. Rather, the Petition appears to collect a number of studies suggesting that chlorpyrifos may have effects on the endocrine system and that EPA should have considered those health impacts at reregistration in a quantitative assessment.

To the extent that petitioners are seeking tolerance revocation on these grounds, the Petition fails to provide a sufficient basis for revocation because, in addition to the preceding defects, the cited data do not provide quantitative data (*i.e.,* endpoints/points of departure) that indicate endocrine effects at doses that are more sensitive than the points of departure used in the chlorpyrifos risk assessment that are based on cholinesterase inhibition. While the cited studies provide qualitative information that exposure to chlorpyrifos may be associated with effects on the androgen and thyroid hormonal pathways, these data alone do not demonstrate that current human exposures from existing tolerances are unsafe. The Agency noted similar effects during its evaluation of information submitted by People for the Ethical Treatment of Animals (PETA) and the Physicians Committee for Responsible Medicine (PCRM) during its review of existing information as part of EPA's EDSP, as discussed below. Based on the review of that data, EPA concluded that the effects seen in those studies do not call into question EPA's prior safety determinations supporting the existing tolerances; the data do not indicate a risk warranting regulatory action, and the petitioners have provided no specific information to alter this determination.

Consequently, the Petition does not support a conclusion that existing tolerances are unsafe due to potential endocrine effects. This portion of the Petition is therefore denied.

As petitioners may be aware, since the filing of the petition, EPA has completed the evaluation of chlorpyrifos under EPA's EDSP, as required under FFDCA section 408(p) that confirms EPA's conclusions. On April 15, 2009, a **Federal Register** notice was published in which chlorpyrifos was included in the initial list of chemicals (List 1) to receive EDSP Tier 1 test orders. The EDSP program is a two-tiered screening and testing program, Tier 1 and Tier 2 tests. Tier 1 includes 11 assays in the battery; these data are intended to allow EPA to determine whether certain substances (including pesticide active and other ingredients) have the potential to interact with the endocrine system and cause an effect in humans or wildlife similar to an effect produced by a ''naturally occurring estrogen, or other such endocrine effects as the Administrator may designate.'' The purpose of Tier 2 tests is to identify and establish a quantitative, dose-response relationship for any adverse effects that might result from the interactions with the endocrine system.

On November 5, 2009, EPA issued Tier 1 test orders to the registrants of chlorpyrifos, requiring a battery of 11 screening assays to identify the potential to interact with the estrogen, androgen, or thyroid hormonal systems. (Ref. 15)

The agency received and reviewed all 11 EDSP Tier 1 screening assays for chlorpyrifos. On June 29, 2015, the agency completed the EDSP weight of evidence (WoE) conclusions for the Tier 1 screening assays for List 1 chemicals, including chlorpyrifos. In addition to the Tier 1 data, the WoE evaluations considered other scientifically relevant information (OSRI), including general toxicity data and open literature studies of sufficient quality. In determining whether chlorpyrifos interacts with the estrogen, androgen or thyroid pathways, the agency considered the number and type of effects induced, the magnitude and pattern of responses observed across studies, taxa, and sexes. Additionally, the agency also considered the conditions under which effects occurred, in particular whether or not endocrine-related responses occurred at dose(s) that also resulted in general systemic or overt toxicity. The agency concluded that, based on weight of evidence considerations, EDSP Tier 2 testing is not recommended for chlorpyrifos since there was no evidence of potential interaction with the estrogen, androgen and thyroid pathways. The EDSP Tier 1 WoE assessment and associated data evaluation records for chlorpyrifos are available online. (Ref. 16) This assessment further supports EPA's denial of this portion of the Petition.

3. Cancer Risks

a. Petitioners' claim. Petitioners claim that the Agency ''ignored'' a December 2004 National Institutes of Health Agricultural Health Study (AHS) by Lee et al. (2004) (Ref. 17) that evaluated the association between chlorpyrifos and lung cancer incidence. (Ref. 17) The petition summarizes the results of the AHS study, stating that the incidence of lung cancer has a statistically significant association with chlorpyrifos exposure. The Petition then asserts that these data are highly relevant and therefore should have been referenced in the final aggregate assessment for chlorpyrifos or the OP CRA. Petitioners do not otherwise explain whether and how these data support the revocation of tolerances or the cancellation of pesticide registrations.

b. Agency Response. As explained in the previous section, the basis for seeking revocation of a tolerance is a showing that the pesticide is not ''safe.'' Claiming that EPA failed to reference certain data in its risk assessment regarding carcinogenicity does not amount to illustrating that the tolerances are unsafe. To show a lack of safety, petitioners would have to present some fact-based argument demonstrating that aggregate exposure to chlorpyrifos poses an unsafe carcinogenic risk. Petitioners have not presented such an analysis. Accordingly, EPA is denying the Petition to revoke chlorpyrifos tolerances or cancel chlorpyrifos registrations to the extent the Petition relies on claims pertaining to carcinogenicity.

Despite the inadequacy of petitioners' cancer claims, in the course of the Agency's review of chlorpyrifos, EPA has examined the Lee et al. study cited by petitioners (Ref. 17) among other lines of evidence. EPA has concluded that the Lee et al. investigation does not alter the Agency's weight of evidence determination concerning chlorpyrifos' carcinogenic potential, and therefore does not alter the Agency's current cancer classification for chlorpyrifos. Specifically, the Agency does not believe this evidence raises sufficient grounds for concern regarding chlorpyrifos that EPA should consider initiating action based upon this information that might lead to revocation of the chlorpyrifos tolerances or cancellation of the chlorpyrifos registrations.

The Agency was aware of the December 2004 study cited by petitioners. While Lee et al. observed a possible association between chlorpyrifos use and the incidence of lung cancer, the authors also stressed that further evaluation was necessary before concluding the association was causal in nature. (Ref. 17) Additional evaluation is necessary because of

possible alternative explanations for the Lee et al. study, which include unmeasured confounding factors or confounding factors not fully accounted for in the analysis, and possible false positive results due to the performance of multiple statistical tests.

EPA has been a collaborating agency with the AHS since 1993, and continues to closely monitor the AHS literature. The Agency is working closely with the AHS researchers to clearly understand the results of their research efforts to ensure the Agency appropriately interprets these data as future studies are published. Between 2003 and 2009 there have been six nested case-control analyses within the AHS which evaluated the use of a number of agricultural pesticides, including chlorpyrifos, in association with specific anatomical cancer sites, in addition to the previously published cohort study (Ref. 17) cited by the petitioners. As noted below, both the Agency and Health Canada have comprehensively reviewed these data.

In accordance with the Agency's 2005 Guideline for Cancer Risk Assessment (Ref. 18), chlorpyrifos is classified as ''Not Likely to be Carcinogenic to Humans'' based on the lack of evidence of carcinogenicity in male or female mice and male or female rats. In chronic toxicity/carcinogenicity studies, animals received chlorpyrifos in their feed every day of their lives (78 weeks for mice and 104 weeks for rats) at doses thousands of times greater than any anticipated exposure to humans from authorized uses. There was no evidence of cancer in the experimental animal studies. Additionally, available evidence from *in vivo* and *in vitro* assays did not support a mutagenic or genotoxic potential of chlorpyrifos.

Recently, the Agency conducted its own review of the six nested case-control analyses and one cohort study within the AHS concerning the carcinogenic potential of chlorpyrifos. (Ref. 19) EPA concluded with respect to the AHS lung cancer results that the findings are useful for generating hypotheses, but require confirmation in future studies. This conclusion is consistent with that of researchers from Health Canada. Specifically, Weichenthal et al. (2010) (Ref. 20) published a review article in Environmental Health Perspectives on pesticide exposure and cancer incidence in the AHS cohort. Their review of these same studies concluded that the weight of experimental toxicological evidence does not suggest that chlorpyrifos is carcinogenic, and that epidemiologic results currently available from the AHS are inconsistent, lack replication, and lack a coherent biologically plausible carcinogenic mode of action. The authors did note positive exposure-response associations for chlorpyrifos and lung cancer in two separate evaluations.

In summary, while there is initial suggestive epidemiological evidence of an association between chlorpyrifos and lung cancer to only form a hypothesis as to a carcinogenic mode of action, additional research (including follow-up AHS research) is needed to test the hypothesis. Consequently, at this time it is reasonable to conclude chlorpyrifos is not a carcinogen in view of the lack of carcinogenicity in the rodent bioassays and the lack of a genotoxic or mutagenic potential. The Agency concludes that existing epidemiological data (including Lee et al.) do not change the current weight of the evidence conclusions. The Agency continues to believe there is not a sufficient basis to alter its assessment of chlorpyrifos as not likely to be carcinogenic to humans when multiple lines of evidence are considered (*e.g.,* epidemiology findings, rodent bioassay, genotoxicity); therefore, chlorpyrifos cancer risk would not be a factor in any potential Agency risk determination to revoke tolerances for chlorpyrifos.

4. CRA Misrepresents Risks, Failed To Apply FQPA10X Safety Factor

a. Petitioners' claim. Petitioners assert that EPA relied on limited data and inaccurate interpretations of data to support its decision to remove the FQPA safety factor in the 2006 OP CRA. Specifically, the petitioners challenge the Agency's use of data from a paper by Zheng et al. (2000) (Ref. 21) claiming that, in contrast to the Agency's analysis of the study data, the data does show an obvious difference between juvenile and adult responses to chlorpyrifos. Petitioners conclude by asserting that the Zheng et al. study supports using a 10X safety factor for chlorpyrifos in the CRA.

b. Agency Response. Petitioners' assertions do not provide a sufficient basis for revoking chlorpyrifos tolerances. As explained previously, the ground for seeking revocation of a tolerance is a showing that the pesticide is not ''safe.'' The petitioners' claim that the data EPA relied upon support a different FQPA safety factor for chlorpyrifos in the CRA does not amount to a showing that chlorpyrifos tolerances are unsafe. To show a lack of safety, petitioners would have to present a factual analysis demonstrating that the lack of a 10X safety factor in the CRA for chlorpyrifos poses unsafe cumulative exposures to the OPs. Petitioners have not made such a showing. For this reason, EPA is denying the petitioners' request to revoke chlorpyrifos tolerances or cancel chlorpyrifos registrations to the extent that request relies on claims pertaining to EPA's failure to provide a 10X safety factor in the 2006 CRA based on the results of the Zheng et al. study.

Despite the inadequacy of petitioners' FQPA safety factor claims, EPA examined the evidence cited by petitioners for the purpose of evaluating whether the evidence raises sufficient grounds for concern regarding chlorpyrifos that EPA should consider initiating the actions sought by the petitioners.

In general, when the Agency conducts a cumulative assessment, the scope of cumulative risk is limited to the common mechanism endpoint—which in this case of the 2006 OP CRA, was cholinesterase inhibition, the primary toxicity mode of action for the OPs. As such, for the OP CRA, experimental toxicology data on AChE inhibition were used for developing relative potency estimates, points of departure, and informing the FQPA safety factor used in the OP CRA. EPA relied on brain AChE data from adult female rats dosed for 21 days or longer for estimating relative potency and points of departure. At approximately three weeks of oral exposure to OPs, AChE inhibition reaches steady state in the adult rat such that continued dosing does not result in increased inhibition. This timeframe of toxicity (21-days and longer) was selected as there was high confidence in the potency estimates derived from the steady state toxicology studies due to the stability of the AChE inhibition.

The Agency's 2006 OP CRA contained EPA's complete FQPA safety factor analysis, (Ref. 22) which involved consideration of pre-natal and post-natal experimental toxicology studies, in addition to exposure information. In the OP CRA, pre-natal exposure AChE studies in rats show that the fetus is no more sensitive than the dam to AChE inhibition and the fetus is often less sensitive than the dam. Thus, evaluating the potential for increased toxicity of juveniles from post-natal exposure was a key component in determining the magnitude of the FQPA safety factors in the OP CRA. Furthermore, because characteristics of children are directly accounted for in the cumulative exposure assessment, the Agency's methods did not underestimate exposure to OPs.

In the 2006 OP CRA, each OP was assigned a 10X FQPA safety factor unless chemical-specific AChE data on young animals were available to

generate a data derived safety factor. To best match the relative potency factor (RPF)s and PODs based on repeated dosing, the Agency used repeated dosing data in juveniles for developing the FQPA safety factors. For chlorpyrifos, at the time of the 2006 OP CRA, the only such data available were from the Zheng et al. literature study.

The petitioners are correct that Dr. Carey Pope of Oklahoma State University provided the Agency with the raw data from the Zheng et al. study. These raw data were used to develop the plot in the 2006 OP CRA which was reproduced in the Petition. Petitioners accurately note that for other OPs a benchmark dose modeling approach was used and that no BMD values were reported for chlorpyrifos. In determining the FQPA safety factor, petitioners claim that the Agency misinterpreted the brain AChE data from Zheng et al.

As shown in the plot reproduced on page 15 of the Petition, the dose-response data in the Zheng et al. study are variable and lack a monotonic shape at the low dose end of the dose response curve. The Agency acknowledges that at the high dose, the pups appear to be more sensitive. However, at the low dose end of the response curve, relevant for human exposures and, thus, the cumulative risk assessment (*i.e.,* at or near the 10% inhibition level), little to no difference is observed. Therefore, despite the lack of BMD estimates for the Zheng et al. study, the Agency is confident in the value used to address the common mechanism endpoint (AChE inhibition) addressed in the 2006 CRA. Since that time, the Agency attempted BMD modeling of the Zheng et al. data as part of the 2011 preliminary chlorpyrifos HHRA (Ref. 23) which yielded low confidence results due to the variability in the data.

Dow AgroSciences submitted a comparative cholinesterase study (CCA) for chlorpyrifos. CCA studies are specially designed studies to compare the dose-response relationship in juvenile and adult rats. This CCA study includes two components: (1) Acute, single dosing in post-natal day 11 and young adult rats and (2) 11-days of repeating dosing in rat pups from PND11–21 and 11-days of repeated dosing in adult rats. The CCA study for chlorpyrifos is considered by EPA to be high quality and well-designed. The preliminary risk assessment for chlorpyrifos' reports BMD estimates from this CCA study. Specifically, for the repeated dosing portion of the study, the BMD_{10s} of 0.80 (0.69 $BMDL_{10}$) and 1.0 (0.95 $BMDL_{10}$) mg/kg/day respectively for female pups and adults support the FQPA safety factor of 1X for the AChE inhibition endpoint used in the 2006 OP CRA. As such, petitioners' claims regarding the CRA and FQPA safety factor is denied.

5. Over-Reliance on Registrant Data

a. Petitioners' claims. Petitioners assert that in reregistering chlorpyrifos EPA ''cherry picked'' data, ''ignoring robust, peer-reviewed data in favor of weak, industry-sponsored data to determine that chlorpyrifos could be re-registered and food tolerances be retained.'' As such, the Agency's reassessment decision is not scientifically defensible.

b. Agency response. This portion of the Petition does not purport to be an independent basis for revoking chlorpyrifos tolerances or cancelling chlorpyrifos registrations. Rather, this claim appears to underlie petitioners' arguments in other sections of the Petition. While petitioners claim that EPA ignored robust, peer-reviewed data in favor of weak, industry-sponsored data for the reregistration of chlorpyrifos, petitioners do not cite to any studies other than those used to support their other claims. In general, petitioners did not provide any studies in the Petition that EPA failed to evaluate. Since the specific studies cited by petitioners are not associated with this claim, but rather their other claims, EPA's response to the specific studies are, therefore, addressed in its responses to petitioners' other claims. However, EPA explains below why, as a general matter, the Agency does not believe it ''over-relied'' on registrant data in evaluating the risks of chlorpyrifos in its 2006 reregistration decision.

In spite of petitioners' claim, the Agency does not ignore robust, peer-reviewed data in favor of industry-sponsored data. Further, EPA has a very public and well-documented set of procedures that it applies to the use and significance accorded all data utilized to inform risk management decisions. Registrant generated data, in response to FIFRA and FFDCA requirements, are conducted and evaluated in accordance with a series of internationally harmonized and scientifically peer-reviewed study protocols designed to maintain a high standard of scientific quality and reproducibility. (Refs. 23 and 24.)

Additionally, to further inform the Agency's risk assessment, EPA is committed to the consideration of other sources of information such as data identified in the open, peer-reviewed literature and information submitted by the public as part of the regulatory evaluation of a pesticide. An important issue, when evaluating any study, is its scientific soundness and quality, and thus, the level of confidence in the study findings to contribute to the risk assessment.

The literature was searched, fully considered, and provided additional information on, chlorpyrifos mode of action, pharmacokinetics, epidemiology, neurobehavioral effects in laboratory animals, and age dependent sensitivity to cholinesterase inhibition.

Therefore, by evaluating registrant data in accordance with internationally harmonized and scientifically peer-reviewed study protocols, undertaking thorough open literature searches, and considering information provided by the public, the Agency is confident that its assessment for chlorpyrifos in 2006 was reasonably based upon the best available science at the time of the assessment. Previous sections of this response to petitioners' claims regarding the Agency's inadequate use of various data only further highlights and supports the scientifically defensible results of the Agency's assessment. Petitioners' claim that the Agency overly relies on registrant data is therefore denied.

6. EPA Has Failed To Properly Address the Exporting Hazard in Foreign Countries From Chlorpyrifos

As noted in Unit II., in EPA's July 16, 2012 interim petition response EPA issued a final denial of this claim. That denial constituted final agency action and EPA is not reopening consideration of that claim.

7.–9. EPA Failed To Quantitatively Incorporate Data Demonstrating Long-Lasting Effects From Early Life Exposure to Chlorpyrifos in Children; EPA Disregarded Data Demonstrating That There Is No Evidence of a Safe Level of Exposure During Pre-Birth and Early Life Stages; EPA Failed To Cite or Quantitatively Incorporate Studies and Clinical Reports Suggesting Potential Adverse Effects Below 10% Cholinesterase Inhibition

a. *Petitioners' claims.* The petitioners assert that human epidemiology and rodent developmental neurotoxicity data suggest that pre-natal and early life exposure to chlorpyrifos can result in long-lasting, possibly permanent damage to the nervous system and that these effects are likely occurring at exposure levels below 10% cholinesterase inhibition, EPA's existing regulatory standard for chlorpyrifos and other OPs. They assert that EPA has therefore used the wrong endpoint as a basis for regulation and that, taking into account the full spectrum of toxicity,

chlorpyrifos does not meet the FFDCA safety standard or the FIFRA standard for registration.

b. Agency response. EPA has grouped claims 7–9 together because they fundamentally all raise the same issue: Whether the potential exists for chlorpyrifos to cause neurodevelopmental effects in infants and children from exposures (either to mothers during pregnancy or directly to infants and children) that are lower than those resulting in 10% cholinesterase inhibition—the basis for EPA's long-standing point of departure in regulating chlorpyrifos and other OPs. While petitioners may perhaps disagree, unlike the claims addressed above, these claims were not truly challenges to EPA's 2006 reregistration decision for chlorpyrifos, but rather, challenges to EPA's ongoing approval of chlorpyrifos under FIFRA and the FFDCA that rely in large measure on data published after EPA completed both its 2001 chlorpyrifos Interim Reregistration Decision and the 2006 OP CRA that concluded the reregistration process for chlorpyrifos and all other OPs. As matters that largely came to light after the completion of reregistration, these petition issues are issues to be addressed as part of the registration review of chlorpyrifos—the next round of re-evaluation under section 3(g) of FIFRA. As petitioners are aware, past EPA administrations prioritized the registration review of the OPs in no small measure to begin to focus on the question of OP neurodevelopmental toxicity, which was, and remains, an issue at the cutting edge of science, involving significant uncertainties. EPA has three times presented approaches and proposals to the FIFRA SAP for evaluating recent epidemiologic data (some of which is cited in the Petition) exploring the possible connection between *in utero* and early childhood exposure to chlorpyrifos and adverse neurodevelopmental effects. The SAP's reports have rendered numerous recommendations for additional study and sometimes conflicting advice for how EPA should consider (or not consider) the epidemiology data in conducting EPA's registration review human health risk assessment for chlorpyrifos. While industry and public interest groups on both sides of this issue can debate what the recommendations mean and which recommendations should be followed, one thing should be clear to all persons following this issue: the science on this question is not resolved and would likely benefit from additional inquiry.

EPA has, however, been unable to persuade the 9th Circuit Court of Appeals that further inquiry into this area of unsettled science should delay EPA's response to the Petition. Faced with an order requiring EPA to respond to the Petition, in October 2015, EPA chose to issue a proposed rule to revoke all chlorpyrifos tolerances based in part on the uncertain science surrounding neurodevelopmental toxicity suggested by certain epidemiology studies. The comments EPA has received on that proposal and on EPA's November 17, 2016 NODA suggest that there continue to be considerable areas of uncertainty with regard to what the epidemiology data show and deep disagreement over how those data should be considered in EPA's risk assessment.

Although not a legal consideration, it is important to recognize that for many decades chlorpyrifos has been and remains one of the most widely used pesticides in the United States, making any decision to retain or remove this pesticide from the market an extremely significant policy choice. In light of the significance of this decision and in light of the significant uncertainty that exists regarding the potential for chlorpyrifos to cause adverse neurodevelopmental effects, EPA's preference is to fully explore approaches raised by the SAP and commenters on the proposed rule, and possibly seek additional authoritative peer review of EPA's risk assessment prior to finalizing any regulatory action in the course of registration review. As the 9th Circuit has made clear in its August 12, 2016 order in *PANNA* v. *EPA,* EPA must provide a final response to the Petition by March 31, 2017, regardless of whether the science remains unsettled and irrespective of whatever options may exist for more a complete resolution of these issues during the registration review process.

While EPA acknowledges its obligation to respond to the Petition as required by the court, the court's order does not and cannot compel EPA to complete the registration review of chlorpyrifos in advance of the October 1, 2022 deadline provided in section 3(g) of FIFRA, 7 U.S.C. 136a(g). Although past EPA administrations had chosen to attempt to complete that review several years in advance of the statutory deadline (and respond to the Petition on the same time frame), it has turned out that it is not possible to fully address these issues early in the registration review period. As a result, EPA has concluded that it should alter its priorities and adjust the schedule for chlorpyrifos so that it can complete its review of the science addressing neurodevelopmental effects prior to making a final registration review decision whether to retain, limit or remove chlorpyrifos from the market. Accordingly, EPA is denying these Petition claims and intends to complete a full and appropriate review of the neurodevelopmental data before either finalizing the proposed rule of October 30, 2015, or taking an alternative regulatory path.

EPA's denial of the Petition on the grounds provided above is wholly consistent with governing law. The petition provision in FFDCA section 408(d) does not address the timing for responding to this petition nor does it limit the extent to which EPA may coordinate its petition responses with the registration review provisions of FIFRA section 3(g). Further, provided EPA completes registration review by October 1, 2022, Congress otherwise gave the EPA Administrator the discretion to determine the schedule and timing for completing the review of the approximately over 1000 pesticide active ingredients currently subject to evaluation under section 3(g). EPA may lawfully re-prioritize the registration review schedule developed by earlier administrations provided that decision is consistent with law and an appropriate exercise of discretion. *See Federal Communications Commission* v. *Fox Television Stations,* 129 S.Ct. 1800 (2009) (Administrative Procedure Act does not require that a policy change be justified by reasons more substantial than those required to adopt a policy in the first instance). Nothing in FIFRA section 3(g) precludes EPA from altering a previously established registration review schedule. Given the absence of a clear statutory directive, FIFRA and the FFDCA provide EPA with discretion to take into account EPA's registration review of a pesticide in determining how and when the Agency responds to FFDCA petitions to revoke tolerances. As outlined above, given the importance of this matter and the fact that critical questions remain regarding the significance of the data addressing neurodevelopmental effects, EPA believes there is good reason to extend the registration review of chlorpyrifos and therefore to deny the Petition. To find otherwise would effectively give petitioners under the FFDCA the authority to re-order scheduling decisions regarding the FIFRA registration review process that Congress has vested in the Administrator.

10. Inhalation Exposure From Volatilization

a. Petitioners' claim. Petitioners assert that when EPA completed its 2006 OP CRA, EPA failed to consider and

incorporate significant exposures to chlorpyrifos-contaminated air that exist for some populations in communities where chlorpyrifos is applied. Petitioners assert that these exposures exceeded safe levels when considering cholinesterase inhibition as a point of departure and that developmental neurotoxicity may occur at even lower exposure levels than those resulting in cholinesterase inhibition.

b. Agency response. To the extent petitioners are asserting that human exposure to chlorpyrifos spray drift and volatilized chlorpyrifos present neurodevelopmental risks for infants and children, EPA is denying this claim for the reasons stated above in our response to claims 7–9. As noted, EPA believes that, given the uncertainties associated with this identified risk concern, the appropriate course of action is for EPA to deny the Petition and work to further resolve this area of unsettled science in the time remaining for the completion of registration review under section 3(g) of FIFRA.

With respect to petitioners' claim that exposures to spray drift and volatilized chlorpyrifos present a risk from cholinesterase inhibition, EPA is denying the Petition for the reasons previously identified in EPA's Spray Drift Mitigation Decision of July 16, 2012 [EPA–HQ–OPP–2008–0850] and EPA's interim response of July 15, 2014 [EPA–HQ–OPP–2007–1005] addressing chlorpyrifos volatilization. In the Spray Drift Mitigation Decision, EPA determined that the chlorpyrifos registrants' adoption of label mitigation (in the form of label use rate reductions and no spray buffer zones) eliminated risk from cholinesterase inhibition as a result of spray drift. As for risks presented by volatilized chlorpyrifos that may occur following application, EPA's July 15, 2014 interim response to the Petition explained that recent vapor phase inhalation studies for both chlorpyrifos and chlorpyrifos-oxon made clear that neither vapor phase chlorpyrifos nor chlorpyrifos-oxon presents a risk of cholinesterase inhibition. Specifically, those studies, as indicated in EPA's memorandum, *Chlorpyrifos: Reevaluation of the Potential Risks from Volatilization in Consideration of Chlorpyrifos Parent and Oxon Vapor Inhalation Toxicity Studies* (Ref. 25), revealed that levels of chlorpyrifos and chlorpyrifos-oxon in vapor form are much lower than the levels seen in earlier aerosol studies that are better suited for evaluating spray drift. Indeed, no cholinesterase inhibition was observed in either volatility study. What is clear from these data is that the air cannot hold levels of volatilized chlorpyrifos or its oxon that are capable of causing adverse effects from cholinesterase inhibition.

VI. Regulatory Assessment Requirements

As indicated previously, this action announces the Agency's order denying a petition filed, in part, under section 408(d) of FFDCA. As such, this action is an adjudication and not a rule. The regulatory assessment requirements applicable to rulemaking do not, therefore, apply to this action.

VII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* does not apply because this action is not a rule for purposes of 5 U.S.C. 804(3).

IX. 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**.

1. The Petition from NRDC and PANNA and EPA's various responses to it are available in docket number EPA–HQ–OPP–2007–1005 available at *http://www.regulations.gov.*
2. FIFRA Scientific Advisory Panel (2016). ''Chlorpyrifos: Analysis of Biomonitoring Data''. Available at: *https://www.epa.gov/sap/meeting-materials-april-19-21-2016-scientific-advisory-panel.*
3. Furlong CE, Holland N, Richter RJ, Bradman A, Ho A, Eskenazi B (2006). PON1status of farmworker mothers and children as a predictor of organophosphate sensitivity. Pharmacogenet Genomics. 2006 Mar; 16(3):183–90.
4. Sultatos LG; Murphy SD, (1983). Kinetic Analysis Of The Microsomal Biotransformation Of The Phosphorothioate Insecticides Chlorpyrifos And Parathion. Fundemental and Applied Toxicology. 3:16–21.
5. U.S. EPA (2008). Draft Appendix E available at *http://www.epa.gov/scipoly/sap/meetings/2008/september/appendixe.pdf.* Draft Science Issue Paper: Chlorpyrifos Hazard and Dose Response Characterization. August 21, 2008. Available at *http://www.epa.gov/scipoly/sap/meetings/2008/september/chlorpyrifoscharacter.pdf.*
6. Holland, N., Furlong, C., Bastaki, M., Richter, R., Bradman, A., Huen, K., Beckman, K., and Eskenazi, B. (2006). Paraoxonase polymorphisms, haplotypes, and enzyme activity in Latino mothers and newborns. Environ. Health Perspect. 114(7), 985–991; Chen, J., Kumar, M., Chan, W., Berkowitz, G., and Wetmur, J. (2003). Increased Influence of Genetic Variation on PON1 Activity in Neonates. Environmental Health Perspective 111, 11:1403–9.
7. U.S. EPA (2008). Transmittal of Meeting Minutes of the FIFRA Scientific Advisory Panel Meeting Held September 16–18, 2008 on the Agency's Evaluation of the Toxicity Profile of Chlorpyrifos. Available at *http://www.epa.gov/scipoly/sap/meetings/2008/september/sap0908report.pdf* at 61.
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11. Harley KG, Huen K, Schall RA, Holland NT, Bradman A, *et al.,*(2011) Association of Organophosphate Pesticide Exposure and Paraoxonase with Birth Outcome in Mexican-American Women. PLoS ONE 6(8): e23923. doi:10.1371/journal.pone.0023923.
12. IPCS (International Programme on Chemical Safety) 2005. Chemical-Specific Adjustment Factors for Interspecies Differences and Human Variability: Guidance Document for Use of Data in Dose/Concentration-Response Assessment. Harmonization Project Document No. 2. World Health Organization, International Programme on Chemical Safety, Geneva, Switzerland.
13. U.S. EPA (2014). Guidance for Applying Quantitative Data to Develop Data-Derived Extrapolation Factors for Interspecies and Intraspecies Extrapolation. Available at *https://www.epa.gov/risk/guidance-applying-quantitative-data-develop-data-derived-extrapolation-factors-interspecies-and.*
14. For additional information on the Endocrine Disruptor Screening program see *http://www.epa.gov/endo/.*
15. For information related to the status of EDSP test orders/DCIs, status of EDSP OSRI: order recipient submissions and

EPA responses, and other EDSP assay information see *http://www.epa.gov/endo/pubs/toresources/index.htm.*
16. For available Data Evaluation Records (DERs) for EDSP Tier 1, see *https://www.epa.gov/endocrine-disruption/endocrine-disruptor-screening-program-tier-1-screening-determinations-and.*
17. Hoppin JA, Lubin JH, Rusiecki JA, Sandler DP, Dosemeci M, Alavanja MC. (2004) Cancer incidence among pesticide applicators exposed to chlorpyrifos in the Agricultural Health Study. *J Natl Cancer Inst, 96*(23), 1781–1789. (hereinafter Lee *et al.,* 2004).
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19. Christenson, C. (2011). D388167, Chlorpyrifos Carcinogenicity: Review of Evidence from the U.S. Agricultural Health Study (AHS) Epidemiologic Evaluations 2003–2009.
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21. Zheng Q, Olivier K, Won YK, Pope CN. (2000). Comparative cholinergic neurotoxicity of oral chlorpyrifos exposures in pre-weaning and adult rats. Toxicological Sciences, 55(1): 124–132.
22. For additional information on the organophosphate cumulative risk assessment, see *http://epa.gov/pesticides/cumulative/2006-op/op_cra_main.pdf.*
23. U.S. EPA (2011). Chlorpyrifos: Preliminary Human Health Risk Assessment for Registration. Available in docket number EPA–HQ–OPP–2008–0850, *http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OPP-2008-0850-0025.*
(23) For additional information on EPA's Harmonized Test Guidelines and international efforts at harmonization, see *http://www.epa.gov/opp00001/science/guidelines.htm.*
(24) Available at *http://www.regulations.gov* in docket EPA–HQ–OPP–2008–0850.

Authority: 7 U.S.C. 136 *et seq.* and 21 U.S.C. 346a.

Dated: March 29, 2017.

E. Scott Pruitt,

Administrator.

[FR Doc. 2017–06777 Filed 4–4–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202)-523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 010071–045.

Title: Cruise Lines International Association Agreement.

Parties: A-Rosa Flussschiff GmbH; Acromas Shipping, Ltd./Saga Shipping; Aida Cruises; AMA Waterways; American Cruise Lines, Inc.; Aqua Expeditions Pte. Ltd.; Australian Pacific Touring Pty Ltd.; Avalon Waterways; Azamara Cruises; Carnival Cruise Lines; Celebrity Cruises, Inc.; Celestyal Cruises; Costa Cruise Lines; Compagnie Du Ponant; Croisieurope; Crystal Cruises; Cunard Line; Disney Cruise Line; Dream Cruises Management Ltd.; Emerald Waterways; French America Line; Hapag-Lloyd Kreuzfahrten Gmbh; Heritage River Journeys Pvt Ltd.; Holland America Line; Luftner Cruises; MSC Cruises; NCL Corporation; Oceania Cruises; P & O Cruises; P & O Cruises Australia; PandaW River Expeditions; Paul Gauguin Cruises; Pearl Seas Cruises; Princess Cruises; Pullmantur Cruises Ship Management Ltd.; Regent Seven Seas Cruises; Riviera Tours Ltd.; Royal Caribbean International; Scenic Luxury Cruises & Tours Ltd.; Seabourn Cruise Line; SeaDream Yacht Club; Shearings Holidays Ltd.; Silversea Cruises, Ltd.; Star Cruises (HK) Limited; St. Helena Line/Andrew Weir Shipping Ltd.; Tauck River Cruising; Thomson Cruises; Travelmarvel; Tui Cruises Gmbh; Uniworld River Cruises, Inc.; Venice Simplon-Orient-Express Ltd./Belmond; and Windstar Cruises.

Filing Party: Andre Picciurro, Esq. Kaye, Rose & Partners, LLP; Emerald Plaza, 402 West Broadway, Suite 1300; San Diego, CA 92101–3542.

Synopsis: The Amendment would update the Agreement membership and revise language in the Agreement regarding the election of the Chair and Vice Chair of the Agreement.

Agreement No.: 012476.

Title: HSDG/HLAG/CMA CGM Slot Charter Agreement.

Parties: Hamburg Sud; Hapag-Lloyd AG; and CMA CGM S.A.

Filing Party: Wayne Rohde; Cozen O'Connor; 1200 19th Street NW., Washington, DC 20036.

Synopsis: The Agreement authorizes HSDG and HLAG to charter space to CMA CGM in the trade between the U.S. East Coast on the one hand, and Colombia, Ecuador, Peru and Chile on the other hand. The Parties have requested expedited review.

Agreement No.: 012477.

Title: CMA CGM/HLAG U.S.-West Med Slot Charter Agreement.

Parties: CMA CGM, S.A.; and Hapag Lloyd AG.

Filing Party: Draughn B. Arbona, Esq; CMA CGM (America) LLC; 5701 Lake Wright Drive; Norfolk, VA 23502.

Synopsis: This Agreement authorizes CMA CGM to charter space to HLAG in the trade between Italy and Spain on the one hand, and the U.S. East Coast on the other hand.

Agreement No.: 012478.

Title: NYK/OOCL Space Charter Agreement.

Parties: Nippon Yusen Kaisha and Orient Overseas Container Line Limited.

Filing Party: Joshua P. Stein; Cozen O'Connor; 1200 Nineteenth Street NW., Washington, DC 20036.

Synopsis: The Agreement authorizes NYK to charter space to OOCL on the service referred to as the PS1 and operated under THE Alliance Agreement (FMC Agreement No. 012439) and to enter into arrangements related to the chartering of such space.

By Order of the Federal Maritime Commission.

Dated: March 31, 2017.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2017–06734 Filed 4–4–17; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 21, 2017.

A. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Cassie Harrington, individually and as co-trustee of Foresight Bank Employee Stock Ownership Plan (ESOP), both of Plainview, Minnesota;* to retain shares of Plainview Bankshares, Inc., Plainview, Minnesota (PBI), and thereby indirectly retain shares of Foresight Bank, Plainview, Minnesota. In addition, the following persons are filing to retain shares of PBI and thus remain members of the Harrington Family Shareholder Group, a group acting in concert, which owns shares of PBI: Sally Harrington, Plainview, Minnesota; Amanda Raines; Issaquah, Washington; Daniel Broome-Raines, Issaquah, Washington; Anton Harrington, Plainview, Minnesota; Julia Harrington, Elgin, Minnesota; Mitchell Harrington, Plainview, Minnesota; Abigail Harrington, Plainview, Minnesota; Nathan Harrington, Plainview, Minnesota; David Harrington, Plainview, Minnesota; Beatrice Harrington, Plainview, Minnesota; Molly Harrington, St. Paul, Minnesota; Ryan Harrington, Lommatzsch, Saxony, Germany; the Harrington Living Trust and Van Harrington, trustee, both of Maiden Rock, Wisconsin; William Harrington, individually and as co-trustee of ESOP, Elgin, Minnesota; Community Presbyterian Church and Kent Harrington as session member, both of Plainview, Minnesota.

Board of Governors of the Federal Reserve System, March 31, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–06729 Filed 4–4–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 21, 2017.

A. Federal Reserve Bank of St. Louis (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *Robert M. Alexander,* Calhan, Colorado; to acquire shares of First Bancshares, Inc., Mountain Grove, Missouri, and thereby indirectly retain voting shares of First Home Bank, Mountain Grove, Missouri, and Stockmens Bank, Colorado Springs, Colorado.

Board of Governors of the Federal Reserve System, March 30, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–06660 Filed 4–4–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 1, 2017.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Edgewater Bancorp, Inc., Saint Joseph, Michigan;* to become a bank holding company following the conversion of its subsidiary, Edgewater Bank, Saint Joseph, Michigan, from a federal savings bank to a Michigan state chartered bank.

Board of Governors of the Federal Reserve System, March 31, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–06730 Filed 4–4–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 1, 2017.

A. Federal Reserve Bank of St. Louis (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *First Bancshares, Inc.,* Mountain Grove, Missouri; to acquire 100 percent of Stockmens Bank, Colorado Springs, Colorado.

Board of Governors of the Federal Reserve System, March 30, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–06661 Filed 4–4–17; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting for the initial review of applications in response to Special Interest Project (SIP) 17–002, Evaluation of the Effectiveness of School-based Health Services Interventions on Student Outcomes.

Time and Date: 11:00 a.m.–6:00 p.m., EDT, May 4, 2017 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters for Discussion: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Evaluation of the Effectiveness of School-based Health Services Interventions on Student Outcomes'', SIP 17–002.

Contact Person for More Information: Jaya Raman, Ph.D., Scientific Review Officer, CDC, 4770 Buford Highway, Mailstop F80, Atlanta, Georgia 30341, Telephone: (770) 488–6511, *kva5@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Claudette Grant,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017–06675 Filed 4–4–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting for the initial review of applications in response to Special Interest Project (SIP) 17–001, Community-based Short and Longer Term Evaluation of the Chronic Pain Self-Management Program (CPSMP).

Time and Date: 11:00 a.m.–6:00 p.m., EDT, May 2, 2017 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters for Discussion: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Community-based Short and Longer Term Evaluation of the Chronic Pain Self-Management Program (CPSMP)'', SIP 17–001.

Contact Person for More Information: Jaya Raman Ph.D., Scientific Review Officer, CDC, 4770 Buford Highway, Mailstop F80, Atlanta, Georgia 30341, Telephone: (770) 488–6511, *kva5@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Claudette Grant,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017–06674 Filed 4–4–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting for the initial review of applications in response to Funding Opportunity Announcements (FOAs): IP17–001, Household Transmission of Influenza Viruses in the Community; IP17–004, Research on the Epidemiology, Prevention and Control of Influenza and Other Respiratory Viruses in India; and CK17–003, Using Influenza-like Illness-specific School Absenteeism as an Early Warning System for Detecting Community Influenza.

Time and Date: 10:00 a.m.–5:00 p.m., EDT, May 2, 2017 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters for Discussion: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Household Transmission of Influenza Viruses in the Community'', IP17–001; ''Research on the Epidemiology, Prevention and Control of Influenza and Other Respiratory Viruses in India'', IP17–004; and ''Using Influenza-like Illness-specific School Absenteeism as an Early Warning System for Detecting Community Influenza'', CK17–003.

Contact Person for More Information: Gregory Anderson, M.S., M.P.H., Scientific Review Officer, CDC, 1600 Clifton Road NE., Mailstop E60, Atlanta, Georgia 30333, Telephone: (404) 718–8833. The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and

Prevention and the Agency for Toxic Substances and Disease Registry.

Claudette Grant,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017–06673 Filed 4–4–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

Announcement of Requirements and Registration for Million Hearts® Hypertension Control Challenge

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC) located within the Department of Health and Human Services (HHS) announces the launch of the Million Hearts® Hypertension Control Challenge.

Million Hearts® is a national initiative to prevent one million heart attacks and strokes by 2022. Achieving this goal means 10 million more Americans must have their blood pressure under control. Million Hearts® is working to control high blood pressure through clinical approaches, such as using health information technology to its fullest potential and integrating team-based approaches to health care, and community approaches, such as strengthening tobacco control and promoting physical activity. For more information about the initiative, visit *https://millionhearts.hhs.gov/*.

To support improved blood pressure control, HHS/CDC is announcing the 2017 Million Hearts® Hypertension Control Challenge. The challenge will improve understanding of successful implementation strategies at the health system level by motivating clinical practices and health systems to strengthen their hypertension control efforts. It will identify clinicians, clinical practices, and health systems that have exceptional rates of hypertension control and recognize them as Million Hearts® Hypertension Control Champions. To support improved quality of care delivered to patients with hypertension, Million Hearts® will document the systems, strategies, processes, and staffing that contribute to the exceptional blood pressure control rates achieved by Champions.

DATES: The Challenge will run from April 7, 2017 through June 2, 2017.

FOR FURTHER INFORMATION CONTACT: Division for Heart Disease and Stroke Prevention, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Hwy NE., Mailstop F–73, Chamblee, GA 30341, Telephone: 770–488–2424, Email: *millionhearts@cdc.gov;* subject line of email: Million Hearts Hypertension Control Challenge; Attention: Mary George.

SUPPLEMENTARY INFORMATION:

Award Approving Official: Anne Schuchat, MD, Acting Director, Centers for Disease Control and Prevention, and Administrator, Agency for Toxic Substances and Disease Registry

Subject of Challenge Competition: The challenge is authorized by Public Law 111–358, the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education and Science Reauthorization Act of 2010 (COMPETES Act).

Entrants to the Million Hearts Hypertension Control Challenge will be asked to provide two hypertension control rates for the practice's or health system's hypertensive population: A current rate for your most recent 12-month reporting period and a previous rate for a 12 month period 1 to 2 years before the current rate. Entrants will also be asked to provide the prevalence of hypertension in their population, describe some population characteristics that might present significant challenges and barriers in controlling hypertension. Entrants with patients presenting with these challenges, as well entrants with systems and processes in place that support hypertension control and are likely to endure, such as electronic reminder systems or team based care, will be taken into consideration in selection.

Nominations will be scored and judged separately by size and type of nominee in the categories listed below. CDC does not guarantee that a specific proportion of Champions will be selected from each category.

- Small individual providers or practices (500–49,999 covered lives)
- Large providers or practices (50,000 or more covered lives)
- Health Systems

Eligibility Rules for Participating in the Competition:

To be eligible to be recognized as a Hypertension Champion under this challenge, an individual or entity—

(1) Shall have completed the nomination form in its entirety to participate in the competition under the rules developed by HHS/CDC;

(2) Shall have complied with all the requirements in this section and;

a. Be a U.S. licensed clinician, practicing in any U.S. setting, who provides continuing care for adult patients with hypertension. The individual must be a citizen or permanent resident of the U.S.

b. Or be a U.S. incorporated clinical practice, defined as any practice with two or more U.S. licensed clinicians who by formal arrangement share responsibility for a common panel of patients, practice at the same physical location or street address, and provide continuing medical care for adult patients with hypertension;

c. Or be a health system, incorporated in and maintaining a primary place of business in the U.S. that provides continuing medical care for adult patients with hypertension. We encourage large health systems (those that are comprised of a large number of geographically dispersed clinics and/or have multiple hospital locations) to consider having one or a few of the highest performing clinics or regional affiliates apply individually instead of the health system applying as a whole;

(3) Must treat all adult patients with hypertension in the practice seeking care, not a selected subgroup of patients;

(4) Must have a data management system (electronic or paper) that allows HHS/CDC or their contractor to check data submitted;

(5) Must treat a minimum of 500 adult patients annually and have a hypertension control rate of at least 70%;

(6) May not be a Federal entity or Federal employee acting within the scope of their employment;

(7) Shall not be an HHS employee working on their applications or submissions during assigned duty hours;

(8) Shall not be an employee or contractor at CDC;

(9) Must agree to participate in a data validation process to be conducted by a reputable independent contractor. Data will be kept confidential by the contractor to the extent applicable law allows and will be shared with the CDC, in aggregate form only (*i.e.,* the hypertension control rate for the practice not individual hypertension values);

(10) Must agree to sign a Business Associate Agreement with the contractor conducting the data validation.

(11) Must have a written policy in place regarding conducting periodic background checks on all providers and

taking appropriate action based on the results of the check. CDC's contractor may also request the policy and any supporting information deemed necessary. In addition, a health system background check will be conducted by CDC or a CDC contractor that includes a search for The Joint Commission sanctions and current investigations for serious institutional misconduct (*e.g.,* investigations for professional medical misconduct). Eligibility status, based upon the above-referenced written policy, appropriate action, and background check, will be determined at the discretion of the CDC consistent with CDC's public health mission.

(12) Must agree to be recognized if selected and agree to participate in an interview to develop a success story that describes the systems and processes that support hypertension control among patients. Champions will be recognized on the Million Hearts® Web site. Strategies used by Champions that support hypertension control may be written into a success story, placed on the Million Hearts® Web site, and attributed to Champions.

Federal grantees may not use Federal funds to develop COMPETES Act challenge applications unless consistent with the purpose of their grant award and specifically requested to do so due to competition design.

Federal contractors may not use Federal funds from a contract to develop COMPETES Act challenge applications or to fund efforts in support of a COMPETES Act challenge.

Individual nominees and individuals in a group practice must be free from convictions or pending investigations of criminal and health care fraud offenses such as felony health care fraud, patient abuse or neglect; felony convictions for other health care-related fraud, theft, or other financial misconduct; and felony convictions relating to unlawful manufacture, distribution, prescribing, or dispensing of controlled substances as verified through the Office of the Inspector General List of Excluded Individuals and Entities. *http://oig.hhs.gov/exclusions/background.asp.*

Individual nominees must be free from serious sanctions, such as those for misuse or mis-prescribing of prescription medications. Eligibility status of individual nominees with serious sanctions will be determined at the discretion of CDC. CDC's contractor may perform background checks on individual clinicians or medical practices.

Champions previously recognized through the 2013, 2014, and 2015 Million Hearts Hypertension Control Challenge retain their designation as a ''Champion'' and are not eligible to be named a Champion in the 2017 challenge.

An individual or entity shall not be deemed ineligible because the individual or entity used Federal facilities or consulted with Federal employees during a competition if the facilities and employees are made available to all individuals and entities participating in the competition on an equal basis.

By participating in this challenge, an individual or organization agrees to assume any and all risks related to participating in the challenge. Individuals or organizations also agree to waive claims against the Federal Government and its related entities, except in the case of willful misconduct, when participating in the challenge, including claims for injury; death; damage; or loss of property, money, or profits, and including those risks caused by negligence or other causes.

By participating in this challenge, individuals or organizations agree to protect the Federal Government against third party claims for damages arising from or related to challenge activities.

Individuals or organizations are not required to hold liability insurance related to participation in this challenge.

No cash prize will be awarded. Champions will receive local and national recognition.

Registration Process for Participants:

To participate, interested parties should go to *https://millionhearts.hhs.gov/.* On this site, nominees will find the entry form and the rules and guidelines for participating. Information required of the nominees on the nomination form includes:

- The size of the nominee's adult patient population, a summary of known patient demographics (*e.g.,* age distribution), and any noteworthy patient population characteristics.
- The number of the nominee's adult patients who were seen during the past year and had a hypertension diagnosis (*i.e.,* hypertension prevalence).
- The nominee's current hypertension control rate for their hypertensive population. In addition, the hypertension control rate during the previous year is required. In determining the hypertension control rate, CDC defines ''hypertension control'' as a blood pressure reading <140 mmHg systolic and <90 mmHg diastolic among patients with a diagnosis of hypertension.

The hypertension control rate should be for the provider's or health system's entire adult hypertensive patient population, not limited to a sample. Examples of ineligible data submissions include hypertension control rates that are limited to treatment cohorts from research studies or pilot studies, patients limited to a specific age range (such as 18–35), or patients enrolled in limited scale quality improvement projects.

- Completion of a checklist of sustainable clinic systems or processes that support hypertension control. These may include provider or patient incentives, dashboards, staffing characteristics, electronic record keeping systems, reminder or alert systems, clinician reporting, service modifications, etc.

The estimated burden for completing the nomination form is 30 minutes.

Amount of the Prize:

Up to a total of 40 of the highest scoring clinical practices or health systems will be recognized as Million Hearts® Hypertension Control Champions.

Basis upon Which Winner Will Be Selected:

The nomination will be scored based on hypertension control rate (at least 90% of score); and sustainable systems in the practice that support hypertension control (up to 5% of score); and patient population that is high risk (up to 5% of score).

Nominees with the highest score will be required to participate in a two-phase process to verify their data. Nominees who are non-compliant or non-responsive with the data requests or timelines will be removed from further consideration. Phase 1 includes verification of the hypertension prevalence and blood pressure control rate data submitted and a background check. For nominees whose Phase 1 data is verified as accurate, phase 2 consists of a medical chart review.

A CDC-sponsored panel of three to five experts consisting of HHS/CDC staff will review the nominations that pass phase 2 to select Champions. Final selection of Champions will take into account all the information from the nomination form, the background check, and data verification. In the event of tie scores at any point in the selection process, geographic location may be taken into account to ensure a broad distribution of champions across rural or more populated areas, representing potentially underserved populations.

Some Champions will participate in a post-challenge telephone interview. The interview will include questions about the strategies employed by the individual or organization to achieve high rates of hypertension control, including barriers and facilitators for

those strategies. The interview will focus on systems and processes and should not require preparation time by the Champion. The estimated time for the interview is two hours, which includes time to review the interview protocol with the interviewer, respond to the interview questions, and review a summary data about the Champion's practices. The summary will be written as a success story and will be posted on the Million Hearts® Web site.

Additional Information:

Information received from nominees will be stored in a password protected file on a secure server. The challenge Web site may post the number of nominations received but will not include confidential or proprietary information about individual nominees, as described further below. The database of information submitted by nominees will not be posted on the Web site. Information collected from nominees will include general details, such as the business name, address, and contact information of the nominee. This type of information is generally publicly available. The nomination will collect and store only aggregate clinical data through the nomination process; no individual identifiable patient data will be collected or stored. Confidential or propriety data, clearly marked as such, will be secured to the full extent allowable by law.

Information for selected Champions, such as the provider, practice, or health system's name, location, hypertension control rate, and clinic practices that support hypertension control will be shared through press releases, the challenge Web site, and Million Hearts® and HHS/CDC resources.

Summary data on the types of systems and processes that all nominees use to control hypertension may be shared in documents or other communication products that describe generally used practices for successful hypertension control. HHS/CDC will use the summary data only as described.

Compliance with Rules and Contacting Contest Winners:

Finalists and the Champions must comply with all terms and conditions of these Official Rules, and winning is contingent upon fulfilling all requirements herein. The initial finalists will be notified by email, telephone, or mail after the date of the judging.

Privacy:

If Contestants choose to provide HHS/CDC with personal information by registering or filling out the submission form through the Challenge.gov Web site, that information is used to respond to Contestants in matters regarding their submission, announcements of entrants, finalists, and winners of the Contest. Information is not collected for commercial marketing. Champions are permitted to cite that they were selected as Champions for the 2017 Million Hearts Hypertension Control Challenge.

General Conditions:

HHS/CDC reserves the right to cancel, suspend, and/or modify the Challenge, or any part of it, for any reason, at HHS/CDC's sole discretion. If the Challenge is cancelled, suspended, and/or modified, HHS/CDC will inform the public through the publication of a notice in the **Federal Register**.

Participation in this Contest constitutes a contestants' full and unconditional agreement to abide by the Contest's Official Rules found at *www.Challenge.gov.*

Authority: 15 U.S.C. 3719.

Dated: March 30, 2017.

Sandra Cashman,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2017–06670 Filed 4–4–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–0726]

Antibody Mediated Rejection in Kidney Transplantation; Public Workshop; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop; request for comments.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing a public workshop regarding new developments and scientific issues related to antibody mediated rejection (AMR) in kidney transplantation. This public workshop is intended to provide information for and gain perspective from individuals, industry, health care professionals, researchers, public health organizations, patients, patient care providers, and other interested persons on various aspects of clinical development of medical products for prophylaxis and/or treatment of AMR in kidney transplant recipients, including clinical trial design and endpoints. The input from this public workshop will also help in developing topics for future discussion.

DATES: The public workshop will be held on April 12, 2017, from 8 a.m. to 6 p.m. and April 13, 2017, from 8:30 a.m. to 1:30 p.m. Submit either electronic or written comments on this public workshop by April 27, 2017. Late, untimely filed comments will not be considered. Electronic comments must be submitted on or before April 27, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of April 27, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date. See the **SUPPLEMENTARY INFORMATION** section for registration date and information. Workshop updates and the workshop agenda will be made available at: *http://www.fda.gov/Drugs/NewsEvents/ucm532070* prior to the workshop.

ADDRESSES: The public workshop will be held at the Tommy Douglas Conference Center, 10000 New Hampshire Ave., Silver Spring, MD 20903. The conference center's phone number is 240–645–4000.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food

and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–N–0726 for ''Antibody Mediated Rejection in Kidney Transplantation.'' Received comments, those filed in a timely manner (see **DATES**) will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Lori Benner and/or Jessica Barnes, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6221, Silver Spring, MD 20993–0002, 301–796–1300.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing a public workshop regarding AMR in kidney transplantation. This public workshop will focus on scientific considerations in the clinical development of medical products for prophylaxis and/or treatment of AMR in kidney transplant recipients.

Among the primary goals of this workshop are the discussion of the role of immunosuppressive medication nonadherence in the development of de novo donor specific antibody (DSA) formation and subsequent AMR, new developments in transplantation and their impact on patient management (such as pretransplant sensitization not manifested by DSA, donor/recipient human leukocyte antigen (HLA) epitope matching, routine posttransplant DSA monitoring), the natural course of the acute-chronic AMR continuum and its temporal association with cellular rejection and changes in glomerular filtration rate (GFR), unmet medical needs and the potential implications of these factors on the design of clinical trials for the prevention and management of AMR.

The Agency encourages individuals, industry, health care professionals, researchers, public health organizations, patients, patient care providers, and other interested persons to attend this public workshop.

II. Participating in the Public Workshop

Registration: Persons interested in attending this public workshop must register by April 6, 2017, midnight Eastern Time. Please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone to *AntibodyMediatedRejectionWorkshop2017@fda.hhs.gov.*

Registration is free and based on space availability, with priority given to early registrants. Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. Registrants will receive confirmation when they have been accepted. If time and space permit, onsite registration on the day of the public workshop will be provided beginning at 7:30 a.m. on April 12, 2017, and 8 a.m. on April 13, 2017. We will let registrants know if registration closes before the day of the public workshop.

If you need special accommodations due to a disability, please contact Jessica Barnes or Lori Benner (see **FOR FURTHER INFORMATION CONTACT**) no later than April 5, 2017.

Requests for Oral Presentations: During online registration you may indicate if you wish to present during a public comment session or participate in a specific session, and which topic(s) you wish to address. We will do our best to accommodate requests to make public comments and requests to participate in the focused sessions. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations, and request time for a joint presentation, or submit requests for designated representatives to participate in the focused sessions. All requests to make oral presentations must be received by the close of registration on April 6, 2017. Following the close of registration, we will determine the amount of time allotted to each presenter and the approximate time each oral presentation is to begin, and will select and notify participants by April 7, 2017. If selected for presentation, any presentation materials must be emailed to *AntibodyMediatedRejectionWorkshop2017@fda.hhs.gov* no later than April 10, 2017. No commercial or promotional material will be permitted to be presented or distributed at the public workshop.

Transcripts: Please be advised that as soon as a transcript of the public workshop is available, it will be accessible at *https://www.regulations.gov.* It may be viewed at the Division of Dockets Management (see **ADDRESSES**). A link to the transcript will also be available on the Internet at *http://www.fda.gov/Drugs/NewEvents/ucm532070.htm* approximately 45 days after the workshop.

Dated: March 29, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–06700 Filed 4–4–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–0001]

Food and Drug Administration/Xavier University Medical Device Conference (MedCon)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public conference.

SUMMARY: The Food and Drug Administration (FDA) Cincinnati District, in co-sponsorship with Xavier University, is announcing a public conference entitled ''FDA/Xavier University Medical Device Conference (MedCon).'' This 3-day public conference includes presentations from key FDA officials and industry experts with small group break-out sessions. The conference is intended for companies of all sizes and employees at all levels.

DATES: The public conference will be held on May 3, 2017, from 8:30 a.m. to 5 p.m.; May 4, 2017, from 8:30 a.m. to 5 p.m.; and May 5, 2017, from 8:30 a.m. to 12:30 p.m.

ADDRESSES: The public conference will be held on the campus of Xavier University, 3800 Victory Pkwy., Cincinnati, OH 45207, 513–745–3016.

FOR FURTHER INFORMATION CONTACT:

For information regarding this notice: Gina Brackett, Food and Drug Administration, 6751 Steger Dr., Cincinnati, OH 45237, 513–679–2700, FAX: 513–679–2771, email: *gina.brackett@fda.hhs.gov.*

For information regarding the conference and registration: Marla Phillips, Xavier Health, Xavier University, 3800 Victory Pkwy., Cincinnati, OH 45207–5471, 513–745–3073, email: *phillipsm4@xavier.edu* or visit *http://www.XavierMedCon.com.*

SUPPLEMENTARY INFORMATION: The public conference helps fulfill the Department of Health and Human Services' and FDA's important mission to protect the public health. The conference will provide those engaged in FDA-regulated medical devices (for humans) with information on the following topics:

- Center Director Corner: Strategic Priorities for 2017 and Beyond.
- European Union (EU) Regulations—Exploring the Unknown.
- Impact of the New EU Regulations on Your Global Regulatory Strategy.
- Digital Health—Key Focus Areas for FDA and Industry.
- Office of Compliance Strategic Priorities.
- Update from the Office of Device Evaluation.
- FDA Insight on the 510(k) Modifications Guidance.
- 510(k) Modifications: To submit or not to submit?
- Your Contract Manufacturer Received a Warning Letter. What Now?
- Defending Claims for Your Device.
- The Impact of Cultural Misalignment . . . . and the Path Forward.
- The Importance of Quality and Regulatory throughout the Merger and Acquisition Lifecycle—Landmines or Opportunities.
- What to Expect with FDA's Program Alignment?
- Investigator Insights and Breaking News.

FDA has made education of the drug and device manufacturing community a high priority to help ensure the quality of FDA-regulated drugs and devices. The conference helps to achieve objectives set forth in section 406 of the Food and Drug Administration Modernization Act of 1997 (21 U.S.C. 393), which includes working closely with stakeholders and maximizing the availability and clarity of information to stakeholders and the public. The conference also is consistent with the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) by providing outreach activities by Government Agencies to small businesses.

Registration: There is a registration fee. The conference registration fees cover the cost of the presentations, training materials, receptions, breakfasts, and lunches for the 3 days of the conference. There will be onsite registration. The cost of registration is as follows:

TABLE 1—REGISTRATION FEES[1]

Attendee type	Standard rate
Industry	1,695
Small Business (<100 employees)	1,200
Start-up Manufacturer	$300
Academic	$300
FDA/Government Employee	Free

[1] The following forms of payment will be accepted: American Express, Visa, MasterCard, and company checks.

To register online for the public conference, please visit the ''Registration'' link on the conference Web site at *http://www.XavierMedCon.com.* FDA has verified the Web site address, but is not responsible for subsequent changes to the Web site after this document publishes in the **Federal Register**.

To register by mail, please send your name, title, firm name, address, telephone, email, and payment information for the fee to Xavier University, Attention: Marla Phillips, 3800 Victory Pkwy., Cincinnati, OH 45207–5471. An email will be sent confirming your registration.

Attendees are responsible for their own accommodations. The conference headquarter hotel is the Downtown Cincinnati Hilton Netherlands Plaza, 35 West 5th St., Cincinnati, OH, 45202, 513–421–9100. Special Conference Block rates are available through April 11, 2017. To make reservations online, please visit the ''Venue/Logistics'' link at *http://www.XavierMedCon.com.* If you need special accommodations due to a disability, please contact Marla Phillips (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the conference.

Dated: March 29, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–06699 Filed 4–4–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–P–3560]

Determination That CEDAX (Ceftibuten Dihydrate) for Oral Suspension, 90 Milligrams/5 Milliliters and 180 Milligrams/5 Milliliters, Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that CEDAX (ceftibuten dihydrate) for oral suspension, 90 milligrams (mg)/5 milliliters (mL) and 180 mg/5 mL, were not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for ceftibuten dihydrate for oral suspension, 90 mg/5 mL and 180 mg/5 mL, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Anuj Shah, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6228, Silver Spring, MD 20993–0002, 301–796–2246.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

CEDAX (ceftibuten dihydrate) for oral suspension, 90 mg/5 mL and 180 mg/5 mL, are the subject of NDA 050686, held by Pernix Therapeutics LLC, and initially approved on December 20, 1995. CEDAX is indicated for the treatment of individuals with mild-to-moderate infections caused by susceptible strains of *Haemophilus influenzae* (including β-lactamase-producing strains), *Moraxella catarrhalis* (including β-lactamase-producing strains), or *Streptococcus pneumoniae* (penicillin-susceptible strains only) in acute bacterial exacerbations of chronic bronchitis; *H. influenzae* (including β-lactamase-producing strains), *M. catarrhalis* (including β-lactamase-producing strains), or *S. pneumoniae* (penicillin-susceptible strains only) in acute bacterial otitis media; and *S. pyogenes* in pharyngitis and tonsillitis.

CEDAX (ceftibuten dihydrate) for oral suspension, 90 mg/5 mL and 180 mg/5 mL, are currently listed in the ''Discontinued Drug Product List'' section of the Orange Book.

Orchid Healthcare (a division of Orchid Pharma, Ltd.) submitted a citizen petition dated October 26, 2016 (Docket No. FDA–2016–P–3560), under 21 CFR 10.30, requesting that the Agency determine whether CEDAX (ceftibuten dihydrate) for oral suspension, 90 mg/5 mL and 180 mg/5 mL, were withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that CEDAX (ceftibuten dihydrate) for oral suspension, 90 mg/5 mL and 180 mg/5 mL, were not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that these drug products were withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of CEDAX (ceftibuten dihydrate) for oral suspension, 90 mg/5 mL and 180 mg/5 mL, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have reviewed the available evidence and determined that these drug products were not withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list CEDAX (ceftibuten dihydrate) for oral suspension, 90 mg/5 mL and 180 mg/5 mL, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to these drug products may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for these drug products should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: March 30, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–06701 Filed 4–4–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Council for Biomedical Imaging and Bioengineering.

The meeting 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 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/or contract proposals 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 and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Biomedical Imaging and Bioengineering.

Date: May 18, 2017.

Open: 8:30 a.m. to 12:00 p.m.

Agenda: Report from the Institute Director, other Institute Staff and scientific presentation.

Place: The William F. Bolger Center, Franklin Building, Classroom 1, 9600 Newbridge Drive, Potomac, MD 20854.

Closed: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: The William F. Bolger Center, Franklin Building, Classroom 1, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: David T. George, Ph.D., Acting Associate Director, Office of Research Administration, National Institute of Biomedical Imaging and Bioengineering, 6707 Democracy Boulevard, Room 920, Bethesda, MD 20892.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *http://www.nibib1.nih.gov/about/NACBIB/*

NACBIB.htm, where an agenda and any additional information for the meeting will be posted when available.

Dated: March 30, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–06666 Filed 4–4–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; 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 materials, 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 on Minority Health and Health Disparities Special Emphasis Panel; National Institute on Minority Health and Health Disparities Small Business Review.

Date: May 18–May 19, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Richard C. Palmer, DRPH, Health Scientist Administrator, National Institute on Minority Health and Health Disparities, National Institutes of Health, 6707 Democracy Blvd., Suite 800, Bethesda, MD 20906, (301) 451–2432, *richard.palmer@nih.gov.*

Dated: March 30, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–06668 Filed 4–4–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; 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 a meeting of the Board of Scientific Counselors, NIDDK.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Diabetes and Digestive and Kidney Diseases, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDDK.

Date: April 27–28, 2017.

Time: 8:00 a.m. to 4:30 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 10, 9th Floor South, Room 233, Solarium Conference Room, 10 Center Drive, Bethesda, MD 20892.

Contact Person: Michael W. Krause, Ph.D., Scientific Director, National Institute of Diabetes and Digestive and Kidney Diseases, National Institute of Health, Building 5, Room B104, Bethesda, MD 20892–1818, (301) 402–4633, *mwkrause@helix.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 30, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–06667 Filed 4–4–17; 8:45 am]

BILLING CODE 4140–01–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 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, through the use of automated collection techniques or other forms of information technology.

Proposed Project: Protection and Advocacy for Individuals With Mental Illness (PAIMI) Annual Program Performance Report (OMB No. 0930–0169)—Extension

The Protection and Advocacy for Individuals with Mental Illness (PAIMI) Act at 42 U.S.C. 10801 *et seq.,* authorized funds to the same protection and advocacy (P&A) systems created under the Developmental Disabilities Assistance and Bill of Rights Act of 1975, known as the DD Act (as amended in 2000, 42 U.S.C. 15001 *et seq.*]. The DD Act supports the Protection and Advocacy for Developmental Disabilities (PADD) Program administered by the Administration on Intellectual and Developmental Disabilities (AIDD) within the Administration on Community Living. AIDD is the lead federal P&A agency. The PAIMI Program supports the same governor-designated P&A systems established under the DD Act by providing legal-based individual and systemic advocacy services to individuals with significant (severe) mental illness (adults) and significant

(severe) emotional impairment (children/youth) who are at risk for abuse, neglect and other rights violations while residing in a care or treatment facility.

In 2000, the PAIMI Act amendments created a 57th P&A system—the American Indian Consortium (the Navajo and Hopi Tribes in the Four Corners region of the Southwest). The Act, at 42 U.S.C. 10804(d), states that a P&A system may use its allotment to provide representation to individuals with mental illness, as defined by section 42 U.S.C. 10802(4)(B)(iii) residing in the community, including their own home, *only,* if the total allotment under this title for any fiscal year is $30 million or more, *and* in such cases an eligible P&A system *must* give priority to representing PAIMI-eligible individuals, as defined by 42 U.S.C. 10802(4)(A) and (B)(i).

The Children's Health Act of 2000 (CHA) also referenced the state P&A system authority to obtain information on incidents of seclusion, restraint and related deaths [see, CHA, Part H at 42 U.S.C. 290ii–1]. PAIMI Program formula grants awarded by SAMHSA go directly to each of the 57 governor-designated P&A systems. These systems are located in each of the 50 states, the District of Columbia, the American Indian Consortium, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

The PAIMI Act at 42 U.S.C. 10805(7) requires that each P&A system prepare and transmit to the Secretary HHS and to the head of its State mental health agency a report on January 1. This report describes the activities, accomplishments, and expenditures of the system during the most recently completed fiscal year, including a section prepared by the advisory council (the PAIMI Advisory Council or PAC) that describes the activities of the council and its independent assessment of the operations of the system.

The Substance Abuse Mental Health Services Administration (SAMHSA) proposes no revisions to its annual PAIMI Program Performance Report (PPR), including the advisory council section, at this time for the following reasons: (1) The revisions revise the SAMHSA PPR, as appropriate, for consistency with the annual reporting requirements under the PAIMI Act and Rules [42 CFR part 51]; (2) The revisions simplify the electronic data entry by state PAIMI programs; (3) GPRA requirements for the PAIMI Program will be revised as appropriate to ensure that SAMHSA obtains information that closely measures actual outcomes of programs that it funds and (4) SAMHSA will reduce wherever feasible the current reporting burden by removing any information that does not facilitate evaluation of the programmatic and fiscal effectiveness of a state P&A system (5) The new electronic version will expedite SAMHSA's ability to prepare the biennial report; (6) The new electronic version will improve SAMHSA's ability to generate reports, analyze trends and more expeditiously provide feedback to PAIMI programs. The current report formats will be effective for the FY 2017 PPR reports due on January 1, 2018

The annual burden estimate is as follows:

	Number of respondents	Number of responses per respondent	Hours per response	Total hour burden
Program Performance Report	57	1	20	1,140
Advisory Council Report	57	1	10	570
Total	57			1,710

Send comments to Summer King, SAMHSA Reports Clearance Officer, 5600 Fishers Lane, Room 15E57–B, Rockville, Maryland 20857, *or* email a copy to *summer.king@samhsa.hhs.gov.* Written comments should be received by June 5, 2017.

Summer King,

Statistician.

[FR Doc. 2017–06724 Filed 4–4–17; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0028]

Agency Information Collection Activities: Cost 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 June 5, 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 1651–0028 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: Cost Submission.

OMB Number: 1651–0028.

Form Number: CBP Form 247.

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.

Abstract: The information collected on CBP Form 247, Cost Submission, is used by CBP to assist in correctly calculating the duty on imported merchandise. This form includes details on actual costs and helps CBP determine which costs are dutiable and which are not. This collection of information is provided for by subheadings 9801.00.10, 9802.00.40, 9802.00.50, 9802.00.60 and 9802.00.80 of the Harmonized Tariff Schedule of the United States (HTSUS), and by 19 U.S.C. 1508 through 1509, 19 CFR 10.11–10.24, 19 CFR 141.88 and 19 CFR 152.106. CBP Form 247 may be found on the Forms page on CBP.gov at: *https://www.cbp.gov/newsroom/publications/forms.*

Estimated Number of Respondents: 1,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated time per Response: 50 hours.

Estimated Total Annual Burden Hours: 50,000.

Dated: March 31, 2017.

Seth Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2017–06758 Filed 4–4–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

[1651–0034]

Agency Information Collection Activities: CBP Regulations Pertaining to Customs Brokers

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 June 5, 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 1651–0034 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: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). 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: CBP Regulations Pertaining to Customs Brokers (19 CFR part 111).

OMB Number: 1651–0034.

Form Numbers: CBP Forms 3124 and 3124E.

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, Individuals.

Abstract: Section 641 of the Tariff Act of 1930, as amended (19 U.S.C. 1641), and Part 111 of the CBP regulations govern the licensing and conduct of customs brokers. Specifically, an individual who wishes to take the broker exam must complete CBP Form 3124E, ''Application for Customs Broker License Exam,'' or to apply for a broker license, CBP Form 3124, ''Application for Customs Broker License.'' The procedures to request a local or national broker permit can be found in 19 CFR 111.19, and a triennial report is required under 19 CFR 111.30. CBP Forms 3124 and 3124E may be found on the Forms page on *CBP.gov* at: *https://www.cbp.gov/newsroom/publications/forms.* Further information about the customs broker exam and how to apply

for it may be found at *http://www.cbp.gov/trade/broker.*

CBP Form 3124E, ''*Application for Customs Broker License Exam*''

Estimated Number of Respondents: 2,300.

Total Number of Estimated Annual Responses: 2,300.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 2,300.

Estimated Total Annual Cost to the Public: $460,000.

CBP Form 3124, ''*Application for Customs Broker License*''

Estimated Number of Respondents: 750.

Total Number of Estimated Annual Responses: 750.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 750.

Estimated Total Annual Cost to the Public: $150,000.

National Broker Permit Application (19 CFR 111.19)

Estimated Number of Respondents: 200.

Total Number of Estimated Annual Responses: 200.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 200.

Estimated Total Annual Cost to the Public: $20,000.

Triennial Report (19 CFR 111.30)

Estimated Number of Respondents: 4,550.

Total Number of Estimated Annual Responses: 4,550.

Estimated Time per Response: .5 hours.

Estimated Total Annual Burden Hours: 2,275.

Estimated Total Annual Cost to the Public: $455,000.

Dated: March 31, 2017.

Seth Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2017–06757 Filed 4–4–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2017–0002; Internal Agency Docket No. FEMA–B–1704]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before July 5, 2017.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1704 to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: March 21, 2017.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

I. Non-watershed-based studies:

Community	Community map repository address
Carroll County, Ohio and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Project: 14–05–9520S Preliminary Date: March 18, 2016	
Unincorporated Areas of Carroll County	Carroll County Courthouse, 119 South Lisbon Street, Carrollton, OH 44615.
Village of Magnolia	Village Hall, 328 North Main Street, Magnolia, OH 44643.
Putnam County, Ohio and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Project: 15–05–4007S Preliminary Date: July 31, 2015	
Unincorporated Areas of Putnam County	Putnam County Courthouse, 245 East Main Street, Ottawa, OH 45875.
Village of Cloverdale	Village Hall and Community Center, 210 Mahoning Street, Cloverdale, OH 45827.
Village of Dupont	Community Center and Village Hall, 105 Liberty Street, Dupont, OH 45837.
Village of Fort Jennings	Village Office, 440 4th Street Fort Jennings, OH 45844.
Stark County, Ohio and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Project: 14–05–9520S Preliminary Dates: March 18, 2016, July 12, 2016	
City of Massillon	Municipal Government Annex, 151 Lincoln Way East, Massillon, OH 44646.
Unincorporated Areas of Stark County	Stark County Office Building, 110 Central Plaza South, Canton, OH 44702.
Village of East Sparta	Municipal Building, 9353 Main Avenue, East Sparta, OH 44626.
Tuscarawas County, Ohio and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Project: 14–05–9520S Preliminary Date: March 18, 2016	
Unincorporated Areas of Tuscarawas County	Tuscarawas County Administrative Offices, 125 East High Avenue, New Philadelphia, OH 44663.

[FR Doc. 2017–06672 Filed 4–4–17; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2017–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services

Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: March 21, 2017.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Arizona:					
Maricopa (FEMA Docket No.: B–1662).	City of Peoria (16–09–0861P).	The Honorable Cathy Carlat, Mayor, City of Peoria, 8401 West Monroe Street, Peoria, AZ 85345.	Engineering Department, 9875 North 85th Avenue, Peoria, AZ 85345.	Feb. 17, 2017	040050
Maricopa (FEMA Docket No.: B–1662).	City of Peoria (16–09–0867P).	The Honorable Cathy Carlat, Mayor, City of Peoria, 8401 West Monroe Street, Peoria, AZ 85345.	Engineering Department, 9875 North 85th Avenue, Peoria, AZ 85345.	Feb. 17, 2017	040050
Maricopa (FEMA Docket No.: B–1662).	City of Phoenix (15–09–2235P).	The Honorable Greg Stanton, Mayor, City of Phoenix, 200 West Washington Street, Phoenix, AZ 85003.	Street Transportation Department 200 West Washington Street, 5th Floor, Phoenix, AZ 85003.	Feb. 10, 2017	040051
Maricopa (FEMA Docket No.: B–1662).	Town of Gilbert (16–09–1926P).	The Honorable John Lewis, Mayor, Town of Gilbert, 50 East Civic Center Drive, Gilbert, AZ 85296.	Town Hall, 90 East Civic Center Drive, Gilbert, AZ 85296.	Feb. 17, 2017	040044
Maricopa (FEMA Docket No.: B–1662).	Unincorporated Areas of Maricopa County (15–09–2235P).	The Honorable Clint L. Hickman, Chairman, Board of Supervisors, Maricopa County, 301 West Jefferson Street 10th Floor, Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	Feb. 10, 2017	040037
Maricopa (FEMA Docket No.: B–1662).	Unincorporated Areas of Maricopa County (16–09–1926P).	The Honorable Clint L. Hickman, Chairman, Board of Supervisors, Maricopa County, 301 West Jefferson Street 10th Floor, Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	Feb. 17, 2017	040037
Pima (FEMA Docket No.: B–1662).	Unincorporated Areas of Pima County (16–09–1661P).	The Honorable Sharon Bronson, Chair, Board of Supervisors, Pima County, 130 West Congress Street, 11th Floor, Tucson, AZ 85701.	Pima County Regional Flood Control District, 201 North Stone Avenue, 9th Floor, Tucson, AZ 85701.	Feb. 3, 2017	040073
Yavapai (FEMA Docket No.: B–1662).	Town of Chino Valley (16–09–0142P).	The Honorable Chris Marley, Mayor, Town of Chino Valley, Town Hall, 202 North State, Route 89, Chino Valley, AZ 86323.	Public Works Department, 1982 Voss Drive, Chino Valley, AZ 86323.	Jan. 27, 2017	040094
California:					
Santa Clara (FEMA Docket No.: B–1662).	City of San Jose (16–09–1141P).	The Honorable Sam Liccardo, Mayor, City of San Jose, 200 East Santa Clara Street, 18th Floor, San Jose, CA 95113.	Department of Public Works, 200 East Santa Clara Street, 3rd Floor, San Jose, CA 95113.	Jan. 19, 2017	060349
Yolo (FEMA Docket No.: B–1662).	Unincorporated Areas of Yolo County (16–09–2472P).	The Honorable Jim Provenza, Chairman, Board of Supervisors,Yolo County, 625 Court Street, Room 204, Woodland, CA 95695.	Department of Planning and Public Works, 292 West Beamer Street, Woodland, CA 95695.	Feb. 13, 2017	060423
Illinois:					
Cass (FEMA Docket No.: B–1662).	Unincorporated Areas of Cass County (15–05–2462P).	The Honorable Dave Parish, Chairman, Cass County Board, 100 East Springfield Street, Virginia, IL 62691.	County Courthouse, 100 East Springfield Street, Virginia, IL 62691.	Jan. 27, 2017	170810
Cass (FEMA Docket No.: B–1662).	Village of Ashland (15–05–2462P).	The Honorable Terry S. Blakeman, Village President, Village of Ashland, 101 North Yates Street, Ashland, IL 62612.	Village Hall, 101 North Yates Street, Ashland, IL 62612.	Jan. 27, 2017	171025
Kane (FEMA Docket No.: B–1662).	Village of Campton Hills (16–05–6021P).	The Honorable Harry Blecker, Village President, Village of Campton Hills, 40W270 LaFox Road, Suite B, Campton Hills, IL 60175.	Village Hall, 40W270 LaFox Road, Suite B, Campton Hills, IL 60175.	Feb. 10, 2017	171396

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Lake (FEMA Docket No.: B–1654).	Unincorporated Areas of Lake County (16–05–2755P).	The Honorable Aaron Lawlor, Chairman, Lake County Board, 18 North County Street, 10th Floor, Waukegan, IL 60085.	Central Permit Facility, 500 West Winchester Road, Unit 101, Libertyville, IL 60048.	Dec. 23, 2016	170357
Lake (FEMA Docket No.: B–1654).	Village of Lincolnshire (16–05–2755P).	The Honorable Elizabeth, Brandt, Mayor, Village of Lincolnshire, 1 Olde Half Day Road, Lincolnshire, IL 60069.	Village Hall, 1 Olde Half Day Road, Lincolnshire, IL 60069.	Dec. 23, 2016	170378
Lake (FEMA Docket No.: B–1654).	Village of Riverwoods (16–05–2755P).	The Honorable John Norris, Mayor, Village of Riverwoods, 300 Portwine Road, Riverwoods, IL 60015.	Village Hall, 300 Portwine Road, Riverwoods, IL 60015.	Dec. 23, 2016	170387
Kansas: Johnson (FEMA Docket No.: B–1662).	City of Overland Park (16–07–1180P).	The Honorable Carl Gerlach, Mayor, City of Overland Park, 8500 Santa Fe Drive, Overland Park, KS 66212.	City Hall, 8500 Santa Fe Drive, Overland Park, KS 66212.	Jan. 4, 2017	200174
Kentucky: Jefferson (FEMA Docket No.: B–1662).	Louisville-Jefferson County Metro Government (16–04–6581P).	The Honorable Greg Fischer, Mayor, Louisville-Jefferson County Metro, Metro Hall, 527 West Jefferson Street, 4th Floor, Louisville, KY 40202.	Louisville-Jefferson County Metropolitan Sewer District, 700 West Liberty Street, Louisville, KY 40203.	Jan. 9, 2017	210120
Missouri:					
Greene (FEMA Docket No.: B–1662).	City of Springfield (16–07–1495P).	The Honorable Bob Stephens, Mayor, City of Springfield, City Hall, 840 Boonville Avenue, Springfield, MO 65802.	City Hall, 840 Boonville Avenue, Springfield, MO 65802.	Feb. 15, 2017	290149
Greene (FEMA Docket No.: B–1662).	Unincorporated Areas of Greene County (16–07–1495P).	Mr. Robert Cirtin, Greene County Presiding Commissioner, Greene County Commission Offices, 933 North Robberson Avenue, Springfield, MO 65802.	Greene County Courthouse, 840 Boonville Avenue, Springfield, MO 65802.	Feb. 15, 2017	290782
Nevada: Clark (FEMA Docket No.: B–1662).	Unincorporated Areas of Clark County (16–09–1844P).	The Honorable Steve Sisolak, Chairman, Board of Supervisors, Clark County, 500 South Grand Central Parkway, 6th Floor, Las Vegas, NV 89106.	Office of the Director of Public Works, 500 South Grand Central Parkway, Las Vegas, NV 89155.	Jan. 5, 2017	320003
New York: Suffolk (FEMA Docket No.: B–1662).	Town of Southold (16–02–1018P).	The Honorable Scott A. Russell, Town Supervisor, Town of Southold, 53095 Main Road, Southold, NY 11971.	Town Hall, 53095 Route 25, Southold, NY 11971.	Feb. 17, 2017	360813
Oregon:					
Benton (FEMA Docket No.: B–1662).	City of Corvallis (16–10–0653P).	The Honorable Biff Traber, Mayor, City of Corvallis, 501 Southwest Madison Avenue, Corvallis, OR 97339.	Planning Department, 501 Southwest Madison Avenue, Corvallis, OR 97333.	Jan. 17, 2017	410009
Jackson (FEMA Docket No.: B–1662).	Unincorporated Areas of Jackson County (16–10–0825P).	The Honorable Rick Dyer, Commissioner, Jackson County, 10 South Oakdale Avenue, Room 214, Medford, OR 97501.	Jackson County Roads, Parks and Planning Services, 10 South Oakdale Avenue, Medford, OR 97501.	Dec. 27, 2016	415589
Texas:					
Dallas (FEMA Docket No.: B–1662).	City of Mesquite (16–06–2265P).	The Honorable Stan Pickett, Mayor, City of Mesquite, 757 North Galloway Avenue, Mesquite, TX 75185.	City Engineering Services, 1515 North Galloway Avenue, Mesquite, TX 75185.	Jan. 5, 2017	485490
Travis (FEMA Docket No.: B–1662).	City of Manor (16–06–1785P).	The Honorable Rita G. Jonse, Mayor, City of Manor, 105 East Eggleston Street, Manor, TX 78653.	City Hall, 201 East Parson Street, Manor, TX 78653.	Jan. 9, 2017	481027
Travis (FEMA Docket No.: B–1662).	Unincorporated Areas of Travis County (16–06–1785P).	The Honorable Sarah Eckhardt, Travis County Judge, 700 Lavaca, Suite 2.300, Austin, TX 78767.	Transportation and Natural Resources, 700 Lavaca Street, 5th Floor, Austin, TX 78767.	Jan. 9, 2017	481026
Washington DC (FEMA Docket No.: B–1662).	District of Columbia (16–03–2068P).	The Honorable Muriel Bowser, Mayor, District of Columbia, John A. Wilson Building, 1350 Pennsylvania Avenue, Northwest, Suite 316, Washington, DC 20004.	Department of Environment, 51 North Street, Northeast, Suite 5020, Washington, DC 20002.	Feb. 9, 2017	110001
Wisconsin:					
Dane (FEMA Docket No.: B–1662).	City of Monona (16–05–3951P).	The Honorable Bob Miller, Mayor, City of Monona, 5211 Schluter Road, Monona, WI 53716.	City Hall, 5211 Schluter Road, Monona, WI 53716.	Dec. 30, 2016	550088
Eau Claire (FEMA Docket No.: B–1662).	City of Eau Claire (16–05–5442P).	The Honorable Kerry Kincaid, President, City Council, 4441 South Lowes Creek Road, Eau Claire, WI 54701.	City Hall, 203 South Farwell Street, 3rd Floor, Eau Claire, WI 54701.	Feb. 14, 2017	550128
Jackson (FEMA Docket No.: B–1662).	Unincorporated Areas of Jackson County (16–05–4012P).	The Honorable Ray Ransom, Chairperson, Jackson County Board, Jackson County Courthouse, 307 Main Street, Black River Falls, WI 54615.	Jackson County Courthouse, 307 Main Street, Black River Falls, WI 54615.	Feb. 9, 2017	550583

[FR Doc. 2017–06676 Filed 4–4–17; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2017–0002; Internal Agency Docket No. FEMA–B–1706]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: March 21, 2017.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case no.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Arizona:						
Maricopa	City of Goodyear (16–09–0749P).	The Honorable Georgia Lord, Mayor, City of Goodyear 190 North Litchfield Road, Goodyear, AZ 85338.	Engineering Department, 14455 West Van Buren Street, Goodyear, AZ 85338.	*http://www.msc.fema.gov/lomc*	May 12, 2017	040046
Maricopa	Unincorporated Areas of Maricopa County (16–09–2698P).	The Honorable Clint L. Hickman, Chairman, Board of Supervisors, Maricopa County, 301 West Jefferson Street, 10th Floor, Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	*http://www.msc.fema.gov/lomc*	May 26, 2017	040037

State and county	Location and case no.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Pinal	Town of Florence (16–09–1788P).	The Honorable Tom Rankin, Mayor, Town of Florence, 775 North Main Street, Florence, AZ 85132.	Department of Public Works, 425 East Ruggles, Florence, AZ 85132.	*http://www.msc.fema.gov/lomc*	May 12, 2017	040084
California:						
Calaveras	City of Angels (16–09–3078P).	The Honorable Wes Kulm, Mayor, City of Angels, 584 South Main Street, Angels Camp, CA 95222.	Public Works Department, 2990 Centennial Road, Angels Camp, CA 95222.	*http://www.msc.fema.gov/lomc*	May 17, 2017	060021
Calaveras	Unincorporated Areas of Calaveras County (16–09–3078P).	The Honorable Michael C. Oliveria, Chairman, Board of Supervisors, Calaveras County, 891 Mountain Ranch Road, San Andreas, CA 95249.	Calaveras County, Planning Department, 891 Mountain Ranch Road, San Andreas, CA 95249.	*http://www.msc.fema.gov/lomc*	May 17, 2017	060633
Monterey	Unincorporated Areas of Monterey County (17–09–0070P).	The Honorable Jane Parker, Chair, Board of Supervisors, Monterey County, P.O. Box 1728, Salinas, CA 93902.	Monterey County, Water Resources Agency, 893 Blanco Circle, Salinas, CA 93901.	*http://www.msc.fema.gov/lomc*	May 18, 2017	060195
San Diego	City of Poway (17–09–0196P).	The Honorable Steve Vaus, Mayor, City of Poway, 13325 Civic Center Drive, Poway, CA 92064.	City Hall, 13325 Civic Center Drive, Poway, CA 92064.	*http://www.msc.fema.gov/lomc*	May 26, 2017	060702
Idaho:.						
Ada	Unincorporated Areas of Ada County (16–10–1405P).	Mr. Jim Tibbs, Commissioner, Ada County, 200 West Front Street, 3rd Floor, Boise, ID 83702.	Ada County, County Courthouse, 200 West Front Street, Boise, ID 83702.	*http://www.msc.fema.gov/lomc*	May 17, 2017	160001
Illinois:						
Will	Village of Romeoville (16–05–5619P).	The Honorable John D. Noak, Mayor, Village of Romeoville, 1050 West Romeo Road, Romeoville, IL 60446.	Village Hall, 1050 West Romeo Road, Romeoville, IL 60446.	*http://www.msc.fema.gov/lomc*	May 19, 2017	170711
Indiana:						
Miami	City of Peru (16–05–4366P).	The Honorable Gabriel Greer, Mayor, City of Peru, City Hall, 35 South Broadway, Peru, IN 46970.	Miami County Courthouse, 25 North Broadway Street, Peru, IN 46970.	*http://www.msc.fema.gov/lomc*	May 17, 2017	180168
Miami	Unincorporated Areas of Miami County (16–05–4366P).	The Honorable Josh Francis, Chairman, Miami County Commissioners, Miami County Courthouse, 25 North Broadway, Peru, IN 46970.	Miami County Courthouse, 25 North Broadway Street, Room 105, Peru, IN 46970.	*http://www.msc.fema.gov/lomc*	May 17, 2017	180409
Iowa:						
Scott	City of Davenport, (16–07–1205P)..	The Honorable Frank Klipsch, Mayor, City of Davenport, City Hall, 226 West 4th Street, Davenport, IA 52801..	City Hall, 226 West 4th Street, Davenport, IA 52801..	*http://www.msc.fema.gov/lomc.*	May 18, 2017	190242
Minnesota:						
Clay	Unincorporated Areas of Clay County (17–05–0558P).	The Honorable Wayne Ingersoll, Vice Chair, Clay County Board of Commissioners, 807 11th Street North, Moorhead, MN 56560.	Clay County Courthouse, 807 11th Street North, Moorhead, MN 56560.	*http://www.msc.fema.gov/lomc*	May 9, 2017	275235
Missouri:						
St. Charles	City of O'Fallon (16–07–1736P).	The Honorable Bill Hennessy, Mayor, City of O'Fallon, 100 North Main Street, O'Fallon, MO 63366.	City Hall, 100 North Main Street, O'Fallon, MO 63366.	*http://www.msc.fema.gov/lomc*	May 12, 2017	290316
St. Charles	Unincorporated Areas of St. Charles County (16–07–1736P).	Mr. Steve Ehlmann, County Executive, St. Charles County, 100 North 3rd Street Suite 318, St. Charles, MO 63301.	County Administration Building, 202 North 2nd Street Suite 420, St. Charles, MO 63301.	*http://www.msc.fema.gov/lomc*	May 12, 2017	290315
Ohio:						

State and county	Location and case no.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Huron	City of Bellevue (16–05–5908P).	The Honorable Kevin G. Strecker, Mayor, City of Bellevue, 3000 Seneca Industrial Parkway, Bellevue, OH 44811.	Bellevue City Centre, 3000 Seneca Industrial Parkway, Bellevue, OH 44811.	*http://www.msc.fema.gov/lomc*	May 12, 2017	390487
Sandusky	Unincorporated Areas of Sandusky County (16–05–5908P).	Mr. Charles Schwochow, Sandusky County Commissioner, 622 Croghan Street, Fremont, OH 43420.	Sandusky Regional Planning Office, 606 West State Street, Fremont, OH 43420.	*http://www.msc.fema.gov/lomc*	May 12, 2017	390486
Texas:						
Tarrant	City of Colleyville (17–06–0726P).	The Honorable David Kelly, Mayor, City of Colleyville, City Hall, 100 Main Street, Colleyville, TX 76034.	City Hall, 401 Oak Valley Road, Colleyville, TX 76034.	*http://www.msc.fema.gov/lomc*	April 26, 2017	480590
Tarrant	City of Euless (17–06–0726P).	The Honorable Linda Martin, Mayor, City of Euless, City Hall, 201 North Ector Drive, Euless, TX 76039.	City Hall, 201 North Ector Drive, Euless, TX 76039.	*http://www.msc.fema.gov/lomc*	April 26, 2017	480593
Wisconsin:						
Rock	City of Evansville (16–05–6630P).	The Honorable Bill Hurtley, Mayor, City of Evansville City Hall, 31 South Madison Street, Evansville, WI 53536.	City Hall, 31 South Madison Street, Evansville, WI 53536.	*http://www.msc.fema.gov/lomc*	May 4, 2017	550366
Rock	Unincorporated Areas of Rock County (16–05–6630P).	Mr. Joshua M. Smith, County Administrator Rock County, Rock County Courthouse, 51 South Main Street, Janesville, WI 53545.	Rock County Courthouse, 51 South Main Street, Janesville, WI 53545.	*http://www.msc.fema.gov/lomc*	May 4, 2017	550363

[FR Doc. 2017–06678 Filed 4–4–17; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2017–0002; Internal Agency Docket No. FEMA–B–1701]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before July 5, 2017.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1701, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: March 13, 2017.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

I. Watershed-based studies:

Community	Community map respository address
Brandywine-Christina Watershed	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddate*	
New Castle County, Delaware and Incorporated Areas	
City of Newark	Planning and Development Department, 220 South Main Street, Newark, DE 19711.
City of New Castle	Public Works Building, 900 Wilmington Road, New Castle, DE 19720.
City of Wilmington	Department of Licensing and Inspection, 800 North French Street, Wilmington, DE 19801.
Town of Elsmere	Town Hall, 11 Poplar Avenue, Elsmere, DE 19805.
Town of Middletown	Town Hall, 19 West Green Street, Middletown, DE 19709.
Town of Newport	Town Administrative Office, 226 North James Street, Newport, DE 19804.
Unincorporated Areas of New Castle County	New Castle County Land Use Department, 87 Reads Way, New Castle, DE 19720.
Village of Arden	Buzz Ware Village Center, 2119 The Highway, Arden, DE 19810.
Village of Ardentown	New Castle County Land Use Department, 87 Reads Way, New Castle, DE 19720.
Lower West Fork Trinity Watershed	
Maps Available for Inspection Online at: *www.fema.gov/preliminaryfloodhazarddata*	
Dallas County, Texas and Incorporated Areas	
City of Dallas	Trinity Watershed Management Department, Flood Plain and Drainage Management, 320 East Jefferson Boulevard, Room 307, Dallas, TX 75203.
City of Grand Prairie	City Development Center, 206 West Church Street, Grand Prairie, TX 75050.
City of Irving	Capital Improvement Program Department, 825 West Irving Boulevard, Irving, TX 75060.
Unincorporated Areas of Dallas County	Dallas County Public Works Department, 411 Elm Street, 4th Floor, Dallas, TX 75202.

II. Non-watershed-based studies:

Community	Community map repository address
Kent County, Delaware and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Project: 13–03–1974S Preliminary Date: February 15, 2016	
Unincorporated Areas of Kent County	Kent County Administrative Complex, Department of Planning Services, 555 Bay Road, Dover, DE 19901.

Community	Community map repository address
Sussex County, Delaware and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Project: 13–03–1974S Preliminary Date: February 15, 2016 and November 4, 2016	
City of Seaford	City Hall, 414 High Street, Seaford, DE 19973.
Town of Bridgeville	Town Hall, 101 North Main Street, Bridgeville, DE 19933.
Town of Georgetown	Town Hall, 39 The Circle, Georgetown, DE 19947.
Town of Laurel	Code Enforcement Office, 201 Mechanic Street, Laurel, DE 19956.
Town of Millsboro	Town Hall, 322 Wilson Highway, Millsboro, DE 19966.
Unincorporated Areas of Sussex County	Sussex County Planning and Zoning Department, 2 The Circle, Georgetown, DE 19947.
Orange County, Florida and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Project: 14–04–A056S Preliminary Date: October 30, 2015	
City of Orlando	City Hall, Permitting Services, 400 South Orange Avenue, 1st Floor, Orlando, FL 32801.
Unincorporated Areas of Orange County	Orange County Stormwater Management Division, 4200 South John Young Parkway, Orlando, FL 32839.
Bryan County, Georgia and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Project: 12–04–0912S Preliminary Date: January 15, 2016	
City of Richmond Hill	Planning and Zoning Department, 85 Richard R. Davis Drive, Richmond Hill, GA 31324.
Unincorporated Areas of Bryan County	Bryan County Engineering and Inspections Department, 66 Captain Matthew Freeman Drive, Suite 201, Richmond Hill, GA 31324.
Chatham County, Georgia and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Project: 12–04–0914S Preliminary Date: May 23, 2016	
City of Bloomingdale	City Hall, 8 West Highway 80, Bloomingdale, GA 31302.
City of Garden City	City Hall, 100 Central Avenue, Garden City, GA 31405.
City of Pooler	City Hall, 100 Southwest Highway 80, Pooler, GA 31322.
City of Port Wentworth	City Hall, 305 South Coastal Highway, Port Wentworth, GA 31407.
City of Savannah	Department of Development Services, 5515 Abercorn Street, Savannah, GA 31405.
City of Tybee Island	City Hall, 403 Butler Avenue, Tybee Island, GA 31328.
Town of Thunderbolt	Town Hall, 2821 River Drive, Thunderbolt, GA 31404.
Town of Vernonburg	Office of the Town of Vernonburg Mayor, 110 East President Street, 2nd Floor, Savannah, GA 31401.
Unincorporated Areas of Chatham County	Old Chatham County Courthouse, 124 Bull Street, Room 430, Savannah, GA 31401.
Liberty County, Georgia and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Project: 12–04–0918S Preliminary Date: May 31, 2016	
City of Flemington	City Hall, 156 Old Sunbury Road, Flemington, GA 31313.
City of Hinesville	City Hall, 115 East M.L. King, Jr. Drive, Hinesville, GA 31313.
City of Midway	City Hall, 150 Butler Street, Unit D, Midway, GA 31320.
City of Riceboro	City Hall, 4614 South Coastal Highway, Riceboro, GA 31323.
City of Walthourville	City Hall, 222 Busbee Road, Walthourville, GA 31333.
Town of Allenhurst	Liberty County Courthouse Annex, Building and Licensing Department, 112 North Main Street, Room 1200, Hinesville, GA 31313.
Unincorporated Areas of Liberty County	Liberty County Courthouse Annex, Building and Licensing Department, 112 North Main Street, Room 1200, Hinesville, GA 31313.

Community	Community map repository address
McIntosh County, Georgia and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Project: 12–04–0920S Preliminary Date: February 15, 2016	
City of Darien	City Hall, 106 Washington Street, Darien, GA 31305.
Unincorporated Areas of McIntosh County	McIntosh County Building and Zoning Department, 100 Madison Street, Darien, GA 31305.
Essex County, Massachusetts (All Jurisdictions)	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Project: 12–01–1063S Preliminary Date: September 13, 2016	
City of Haverhill	City Hall, 4 Summer Street, Haverhill, MA 01830.
Tarrant County, Texas and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Project: 12–06–3577S Preliminary Date: August 21, 2015 and October 30, 2015	
City of Arlington	City Hall, 101 West Abram Street, Arlington, TX 76010.
City of Fort Worth	Department of Transportation and Public Works, 200 Texas Street, Fort Worth, TX 76102.
City of Grand Prairie	City Development Center, 206 West Church Street, Grand Prairie, TX 75050.
City of Haltom City	City Hall, 5024 Broadway Avenue, Haltom City, TX 76117.
City of Hurst	City Hall, 1505 Precinct Line Road, Hurst, TX 76054.
City of North Richland Hills	City Hall, 4301 City Point Drive, North Richland Hills, TX 76180.
City of Richland Hills	City Hall, 3200 Diana Drive, Richland Hills, TX 76118.
City of Saginaw	City Hall, 333 West McLeroy Boulevard, Saginaw, TX 76179.
Town of Edgecliff Village	Municipal Complex, 1605 Edgecliff Road, Edgecliff Village, TX 76134.
Unincorporated Areas of Tarrant County	Tarrant County Transportation Department, 100 East Weatherford Street, Suite 401, Fort Worth, TX 76196.

[FR Doc. 2017–06679 Filed 4–4–17; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2017–0002; Internal Agency Docket No. FEMA–B–1705]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: March 13, 2017.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Colorado:						
Arapahoe	City of Centennia (16–08–1082P).	The Honorable Cathy Noon, Mayor, City of Centennial, 13133 East Arapahoe Road, Centennial, CO 80112.	Southeast Metro, Stormwater Authority, 7437 South Fairplay Street, Centennial, CO 80112.	*http://www.msc.fema.gov/lomc*	May 19, 2017	080315
Boulder	City of Boulder (16–08–0675P).	The Honorable Suzanne Jones, Mayor, City of Boulder, P.O. Box 791, Boulder, CO 80306.	Planning and Development Services Department, 1739 Broadway Street, Boulder, CO 80302.	*http://www.msc.fema.gov/lomc*	May 17, 2017	080024
Teller	City of Woodland Park (16–08–1217P).	The Honorable Neil Levy, Mayor, City of Woodland Park, P.O. Box 9007, Woodland Park, CO 80866.	Public Works Department, 220 W South Avenue, Woodland Park, CO 80866.	*http://www.msc.fema.gov/lomc*	May 18, 2017	080175
Teller	Unincorporated areas of Teller County (16–08–1217P).	The Honorable Norm Steen, Chairman, Teller County Board of Commissioners, P.O. Box 959, Cripple Creek, CO 80813.	Teller County, Administrative Department, 112 North A Street, Cripple Creek, CO 80813.	*http://www.msc.fema.gov/lomc*	May 18, 2017	080173
Florida:						
Bay	City of Callaway (16–04–6043P).	The Honorable Bob Pelletier, Mayor, City of Callaway, 6601 East Highway 22, Callaway, FL 32404.	Public Works Department, 324 South Berthe Avenue, Callaway, FL 32404.	*http://www.msc.fema.gov/lomc*	Jun 1, 2017	120005
Bay	Unincorporated areas of Bay County (16–04–6043P).	The Honorable William T. Dozier, Chairman, Bay County Board of Commissioners, 840 West 11th Street, Panama City, FL 32401.	Bay County Planning and Zoning Division, 840 West 11th Street, Panama City, FL 32401.	*http://www.msc.fema.gov/lomc*	Jun 1, 2017	120004
Broward	City of Plantation (16–04–7674P).	The Honorable Diane Veltri Bendekovic, Mayor, City of Plantation, 400 Northwest 73rd Avenue, Plantation, FL 33317.	Engineering Department, 401 Northwest 70th Terrace, Plantation, FL 33317.	*http://www.msc.fema.gov/lomc*	May 25, 2017	120054
Collier	City of Marco Island (17–04–0130P).	The Honorable Larry Honig, Chairman, City of Marco Island Council, 50 Bald Eagle Drive, Marco Island, FL 34145.	City Hall, 50 Bald Eagle Drive, Marco Island, FL 34145.	*http://www.msc.fema.gov/lomc*	May 12, 2017	120426
Lee	City of Sanibel (16–04–7280P).	The Honorable Kevin Ruane, Mayor, City of Sanibel, 800 Dunlop Road, Sanibel, FL 33957.	Planning and Code Enforcement Department, 800 Dunlop Road, Sanibel, FL 33957.	*http://www.msc.fema.gov/lomc*	May 12, 2017	120402

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Lee	Town of Fort Myers Beach (16–04–7620P).	The Honorable Dennis C. Boback, Mayor, Town of Fort Myers Beach, 2525 Estero Boulevard, Fort Myers Beach, FL 33931.	Community Development Department, 2525 Estero Boulevard, Fort Myers Beach, FL 33931.	*http://www.msc.fema.gov/lomc*	May 25, 2017	120673
Lee	Town of Fort Myers Beach (17–04–0306P).	The Honorable Dennis C. Boback, Mayor, Town of Fort Myers Beach, 2525 Estero Boulevard, Fort Myers Beach, FL 33931.	Community Development Department, 2525 Estero Boulevard, Fort Myers Beach, FL 33931.	*http://www.msc.fema.gov/lomc*	May 25, 2017	120673
Monroe	Unincorporated areas of Monroe County (16–04–7184P).	The Honorable George Neugent, Mayor, Monroe County Board of Commissioners, 25 Ships Way, Big Pine Key, FL 33043.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	*http://www.msc.fema.gov/lomc*	May 2, 2017	125129
Monroe	Unincorporated areas of Monroe County (17–04–0522P).	The Honorable George Neugent, Mayor, Monroe County Board of Commissioners, 25 Ships Way, Big Pine Key, FL 33043.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	*http://www.msc.fema.gov/lomc*	May 30, 2017	125129
Pinellas	City of Clearwater (17–04–0745P).	The Honorable George N. Cretekos, Mayor, City of Clearwater, P.O. Box 4748, Clearwater, FL 33758.	Engineering Department, 100 South Myrtle Avenue, Suite 220, Clearwater, FL 33756.	*http://www.msc.fema.gov/lomc*	May 25, 2017	125096
St. Johns	Unincorporated areas of St. Johns County (16–04–7407P).	The Honorable Jeb Smith, Chairman, St. Johns County Board of Commissioners, 500 San Sebastian View, St. Augustine, FL 32084.	St. Johns County Building Services Department, 4040 Lewis Speedway, St. Augustine, FL 32084.	*http://www.msc.fema.gov/lomc*	May 30, 2017	125147
Seminole	City of Casselberry (16–04–3548P).	The Honorable Charlene Glancy, Mayor, City of Casselberry, 95 Triplet Lake Drive, Casselberry, FL 32707.	Public Works Department, 95 Triplet Lake Drive, Casselberry, FL 32707.	*http://www.msc.fema.gov/lomc*	May 22, 2017	120291
Georgia:						
Bryan	Unincorporated areas of Bryan County (16–04–6054P).	The Honorable Jimmy Burnsed, Chairman, Bryan County Board of Commissioners, P.O. Box 430, Pembroke, GA 31321.	Bryan County Planning and Zoning Department, 66 Captain Matthew Freeman Drive, Suite 201, Richmond Hill, GA 31324.	*http://www.msc.fema.gov/lomc*	May 5, 2017	130016
Fayette	City of Peachtree City, (16–04–5178P).	The Honorable Vanessa Fleisch, Mayor, City of Peachtree City, 151 Willowbend Road, Peachtree City, GA 30269.	Engineering Department, 151 Willowbend Road, Peachtree City, GA 30269.	http://www.msc.fema.gov/lomc	Apr. 13, 2017	130078
Fayette	Unincorporated areas of Fayette County (16–04–5178P).	The Honorable Charles Oddo, Chairman, Fayette County Board of Commissioners, 140 Stonewall Avenue West, Suite 100, Fayetteville, GA 30214.	Fayette County Environmental Management Department, 140 Stonewall Avenue West, Suite 203, Fayetteville, GA 30214.	*http://www.msc.fema.gov/lomc*	Apr. 13, 2017	130432
Massachusetts:						
Essex	City of Beverly (16–01–2010P).	The Honorable Michael P. Cahill, Mayor, City of Beverly, 191 Cabot Street, Beverly, MA 01915.	Public Services Department, 191 Cabot Street, Beverly, MA 01915.	*http://www.msc.fema.gov/lomc*	May 5, 2017	250077
Essex	City of Beverly (17–01–0046P).	The Honorable Michael P. Cahill, Mayor, City of Beverly, 191 Cabot Street, Beverly, MA 01915.	Public Services Department, 191 Cabot Street, Beverly, MA 01915.	*http://www.msc.fema.gov/lomc*	May 5, 2017	250077
Plymouth	Town of Marion (17–01–0065P).	The Honorable Jonathan E. Dickerson, Chairman, Town of Marion Board of Selectmen, 2 Spring Street, Marion, MA 02738.	Town Hall, 2 Spring Street, Marion, MA 02738.	*http://www.msc.fema.gov/lomc*	May 5, 2017	255213
North Carolina:						

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Onslow	Town of North Topsail Beach (17–04–0504P).	The Honorable Fred J. Burns, Mayor, Town of North Topsail Beach, 2008 Loggerhead Court, North Topsail Beach, NC 28460.	Planning Department, 2008 Loggerhead Court, North Topsail Beach, NC 28460.	*http://www.msc.fema.gov/lomc*	May 4, 2017	370466
Union	Unincorporated areas of Union County (16–04–5693P).	The Honorable Frank Aikmus, Chairman, Union County Board of Commissioners, 500 North Main Street, Suite 921, Monroe, NC 28112.	Union County Planning Department, 500 North Main Street, Suite 70, Monroe, NC 28112.	*http://www.msc.fema.gov/lomc*	May 1, 2017	370234
Wake	Town of Holly Springs (16–04–7667P).	The Honorable Richard G. Sears, Mayor, Town of Holly Springs, P.O. Box 8, Holly Springs, NC 27540.	Engineering Department, 128 South Main Street, Holly Springs, NC 27540.	*http://www.msc.fema.gov/lomc*	May 25, 2017	370403
Ohio:						
Greene	City of Fairborn (16–05–6238P).	Mr. Pete Bales, CPRP, Interim Manager, City of Fairborn, 44 West Hebble Avenue, Fairborn, OH 45324.	Government Center, 44 West Hebble Avenue, Fairborn, OH 45324.	*http://www.msc.fema.gov/lomc*	May 19, 2017	390195
Rhode Island:						
Providence	City of Cranston (16–01–1503P).	The Honorable Allan W. Fung, Mayor, City of Cranston, 869 Park Avenue, Cranston, RI 02910.	City Hall, 869 Park Avenue, Cranston, RI 02910.	*http://www.msc.fema.gov/lomc*	Apr. 21, 2017	445396
Texas:						
Bexar	City of San Antonio (16–06–1449P).	The Honorable Ivy R. Taylor, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capital Improvements Department, Storm Water Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	*http://www.msc.fema.gov/lomc*	May 18, 2017	480045
Collin	City of Frisco (16–06–3251P).	The Honorable Maher Maso, Mayor, City of Frisco, 6101 Frisco Square Boulevard, 3rd Floor, Frisco, TX 75034.	City Hall, 6101 Frisco Square Boulevard, 3rd Floor, Frisco, TX 75034.	*http://www.msc.fema.gov/lomc*	May 22, 2017	480134
Collin	City of McKinney (16–06–3366P).	The Honorable Brian Loughmiller, Mayor, City of McKinney, P.O. Box 517, McKinney, TX 75070.	Engineering Department, 221 North Tennessee Street, McKinney, TX 75069.	*http://www.msc.fema.gov/lomc*	May 8, 2017	480135
Collin	Unincorporated areas of Collin County (16–06–3366P).	The Honorable Keith Self, Collin County Judge, 2300 Bloomdale Road, Suite 4192, McKinney, TX 75071.	Collin County Engineering Department, 4690 Community Avenue, Suite 200, McKinney, TX 75071.	*http://www.msc.fema.gov/lomc*	May 8, 2017	480130
Denton	Town of Argyle (16–06–3285P).	The Honorable Peggy Krueger, Mayor, Town of Argyle, P.O. Box 609, Argyle, TX 76226.	Planning and Zoning Division, 308 Denton Street, Argyle, TX 76226.	*http://www.msc.fema.gov/lomc*	May 26, 2017	480775
Fort Bend	City of Missouri City (17–06–0015P).	The Honorable Allen Owen, Mayor, City of Missouri City, 1522 Texas Parkway, Missouri City, TX 77489.	Engineering Department, 1522 Texas Parkway, Missouri City, TX 77489.	*http://www.msc.fema.gov/lomc*	May 17, 2017	480304
Fort Bend	Unincorporated areas of Fort Bend County (17–06–0015P).	The Honorable Robert Hebert, Fort Bend County Judge, 401 Jackson Street, Richmond, TX 77469.	Fort Bend County Engineering Department, 301 Jackson Street, 4th Floor, Richmond, TX 77469.	*http://www.msc.fema.gov/lomc*	May 17, 2017	480228
Harris	City of Missouri City (16–06–2490P).	The Honorable Allen Owen, Mayor, City of Missouri City, 1522 Texas Parkway, Missouri City, TX 77489.	Engineering Department, 1522 Texas Parkway, Missouri City, TX 77489.	*http://www.msc.fema.gov/lomc*	Jun. 2, 2017	480304
Johnson and Tarrant.	City of Burleson (17–06–0126P).	The Honorable Ken Shetter, Mayor, City of Burleson, 141 West Renfro Street, Burleson, TX 76028.	Engineering Services Department, 141 West Renfro Street, Burleson, TX 76028.	*http://www.msc.fema.gov/lomc*	May 8, 2017	485459
Montgomery	City of Conroe (16–06–1009P).	The Honorable Toby Powell, Mayor, City of Conroe, P.O. Box 3066, Conroe, TX 77305.	Public Works Department, 300 West Davis Street, Conroe, TX 77301.	*http://www.msc.fema.gov/lomc*	May 4, 2017	480484

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Montgomery ...	City of Shenandoah (16–06–1009P).	The Honorable Ritch Wheeler, Mayor, City of Shenandoah, 29955 I–45 North Shenandoah, TX 77381.	City Hall, 29955 I–45 North Shenandoah, TX 77381.	*http://www.msc.fema.gov/lomc*	May 4, 2017	481256
Montgomery ...	Unincorporated areas of Montgomery County (16–06–1009P).	The Honorable Craig Doyal, Montgomery County Judge, 501 North Thompson Street, Suite 401, Conroe, TX 77301.	Montgomery County Engineering Department, 501 North Thompson Street, Suite 103, Conroe, TX 77301.	*http://www.msc.fema.gov/lomc*	May 4, 2017	480483
Tarrant	City of Fort Worth (17–06–0126P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102.	Transportation and Public Works Department, 1000 Throckmorton Street, Fort Worth, TX 76102.	*http://www.msc.fema.gov/lomc*	May 8, 2017	480596
Tom Green	City of San Angelo (17–06–0008P).	Mr. Daniel Valenzuela, Manager, City of San Angelo, 72 West College Avenue, San Angelo, TX 76903.	City Hall, 72 West College Avenue, San Angelo, TX 76903.	*http://www.msc.fema.gov/lomc*	May 3, 2017	480623
Tom Green	Unincorporated areas of Tom Green County (17–06–0008P).	The Honorable Stephen C. Floyd, Tom Green County Judge, 122 West Beauregard Avenue, San Angelo, TX 76903.	Tom Green County Courthouse, 122 West Beauregard Avenue, San Angelo, TX 76903.	*http://www.msc.fema.gov/lomc*	May 3, 2017	480622
Utah:						
Salt Lake	Town of Herriman (16–08–1375P).	The Honorable Carmen Freeman, Mayor, Town of Herriman, 13011 South Pioneer Street, Herriman, UT 84096.	City Hall, 13011 South Pioneer Street, Herriman, UT 84096.	*http://www.msc.fema.gov/lomc*	May 4, 2017	490252
Wyoming:						
Albany	City of Laramie (16–08–0896P).	Ms. Janine Jordan, Manager, City of Laramie, P.O. Box C, Laramie, WY 82073.	City Hall, 406 Ivinson Avenue, Laramie, WY 82073.	*http://www.msc.fema.gov/lomc*	May 17, 2017	560002
Albany	Unincorporated areas of Albany County (16–08–0896P).	The Honorable Tim Chesnut, Chairman, Albany County Board of Commissioners, 525 East Grand Avenue, Suite 202, Laramie, WY 82070.	Albany County Planning Department, 1002 South 3rd Street, Laramie, WY 82070.	*http://www.msc.fema.gov/lomc*	May 17, 2017	560001

[FR Doc. 2017–06680 Filed 4–4–17; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2017–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: March 21, 2017.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Arkansas:					
Crawford (FEMA Docket No.: B–1665.	City of Van Buren (16–06–1669P.	The Honorable Bob Freeman, Mayor, City of Van Buren, 1003 Broadway Street, Van Buren, AR 72956.	Public Works Department, 1003 Broadway Street, Van Buren, AR 72956.	Jan. 26, 201 ...	05005
Crawford (FEMA Docket No.: B–1665.	Unincorporated areas of Crawford County (16–06–1669P.	The Honorable John Hall, Crawford County Judge, 300 Main Street, Room 4, Van Buren, AR 72956.	Crawford County Department of Emergency Management, 1820 Chestnut Street, Van Buren, AR 72956.	Jan. 26, 201 ...	05042
Colorado:					
Adams (FEMA Docket No.: B–1665.	City of Thornton (16–08–0136P.	The Honorable Heidi Williams, Mayor, City of Thornton, 9500 Civic Center Drive, Thornton, CO 80229.	Engineering Services Division, 12450 Washington Street, Thornton, CO 80241.	Feb. 10, 201 ...	08000
Adams FEMA Docket No.: B–1665.	Unincorporated areas of Adams County 16–08–0136P.	The Honorable Steve O'Dorisio, Chairman, Adams County Board of Commissioners, 4430 South Adams County Parkway, Brighton, CO 80601.	Adams County Development and Engineering Services Department, 4430 South Adams County Parkway, Brighton, CO 80601.	Feb. 10, 201 ...	08000
Broomfield FEMA Docket No.: B–1660.	City and County of Broomfield (16–08–1117P.	The Honorable Randy Ahrens, Mayor, City and County of Broomfield, 1 Des Combes Drive, Broomfield, CO 80020.	Engineering Department, 1 Des Combes Drive, Broomfield, CO 80020.	Jan. 27, 201 ...	08507
Jefferson (FEMA Docket No.: B–1660.	City of Arvada (15–08–1159P.	The Honorable Marc Williams, Mayor, City of Arvada, P.O. Box 8101, Arvada, CO 80001.	Engineering Division, 8101 Ralston Road, Arvada, CO 80001.	Jan. 27, 201 ...	08507
Jefferson (FEMA Docket No.: B–1665.	City of Westminster (16–08–0792P.	The Honorable Herb Atchison, Mayor, City of Westminster, 4800 West 92nd Avenue, Westminster, CO 80031.	Engineering Division, 4800 West 92nd Avenue, Westminster, CO 80031.	Feb. 17, 201 ...	08000
Jefferson (FEMA Docket No.: B–1660.	Unincorporated areas of Jefferson County (15–08–1159P.	The Honorable Libby Szabo, Chair, Jefferson County, Board of Commissioners, 100 Jefferson County Parkway, Golden, CO 80419.	Jefferson County Planning and Zoning Division, 100 Jefferson County Parkway, Golden, CO 80419.	Jan. 27, 201 ...	08008
Delaware					
New Castle (FEMA Docket No.: B–1665.	Unincorporated areas of New Castle County (16–03–2184P.	The Honorable Thomas Gordon, New Castle County Executive, 87 Reads Way, New Castle, DE 19720.	New Castle County Department of Land Use, 87 Reads Way, New Castle, DE 19720.	Jan. 30, 201 ...	10508
Florida:					
Charlotte (FEMA Docket No.: B–1660.	Unincorporated areas of Charlotte County (16–04–6938P.	The Honorable Bill Truex, Chairman, Charlotte County Board of Commissioners, 18500 Murdock Circle Port Charlotte, FL 33948.	Charlotte County Community Development Department, 18400 Murdock Circle, Port Charlotte, FL 33948.	Jan. 26, 201 ...	12006
Lake (FEMA Docket No.: B–1665.	City of Groveland (16–04–3023P.	The Honorable Tim Loucks, Mayor, City of Groveland, 156 South Lake Avenue, Groveland, FL 34736.	City Hall, 156 South Lake Avenue, Groveland, FL 34736.	Feb. 3, 201	12013
Lake (FEMA Docket No.: B–1665.	Unincorporated areas of Lake County (16–04–3023P.	The Honorable Sean Parks, Chairman, Lake County Board of Commissioners, 315 West Main Street, Tavares, FL 32778.	Lake County Public Works Department, 323 North Sinclair Avenue, Tavares, FL 32778.	Feb. 3, 201	12042
Lee (FEMA Docket No.: B–1660.	City of Sanibel (16–04–5162P.	The Honorable Kevin Ruane, Mayor, City of Sanibel, 800 Dunlop Road, Sanibel, FL 33957.	Building Department, 800 Dunlop Road, Sanibel, FL 33957.	Jan. 31, 201 ...	12040
Lee (FEMA Docket No.: B–1660.	City of Sanibel (16–04–6547P.	The Honorable Kevin Ruane, Mayor, City of Sanibel, 800 Dunlop Road, Sanibel, FL 33957.	Building Department, 800 Dunlop Road, Sanibel, FL 33957.	Jan. 26, 201 ...	12040
Monroe (FEMA Docket No.: B–1660.	City of Key West (16–04–4726P.	The Honorable Craig Cates, Mayor, City of Key West, P.O. Box 1409, Key West, FL 33041.	Building Department, 3140 Flagler Avenue, Key West, FL 33040.	Jan. 24, 201 ...	12016

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Osceola (FEMA Docket No.: B–1665.	Unincorporated areas of Osceola County (16–04–5214P.	The Honorable Viviana Janer, Chair, Osceola County Board of Commissioners, 1 Courthouse Square, Suite 4700, Kissimmee, FL 34741.	Osceola County Development Review Department, 1 Courthouse Square, Suite 1400, Kissimmee, FL 34741.	Feb. 10, 201 ...	12018
St. Johns (FEMA Docket No.: B–1665.	Unincorporated areas of St. Johns County (16–04–4101P.	The Honorable Jeb Smith, Chairman, St. Johns County Board of Commissioners, 500 San Sebastian View, St. Augustine, FL 32084.	St. Johns County Building Services Division, 4040 Lewis Speedway, St. Augustine, FL 32084.	Jan. 31, 201 ...	12514
Seminole (FEMA Docket No.: B–1665.	City of Oviedo (16–04–3084P.	The Honorable Dominic Persampiere, Mayor, City of Oviedo, 400 Alexandria Boulevard, Oviedo, FL 32765.	Engineering Department, 400 Alexandria Boulevard, Oviedo, FL 32765.	Feb. 8, 201	12029
Seminole (FEMA Docket No.: B–1665.	Unincorporated areas of Seminole, County (16–04–3084P.	The Honorable John Huran, Chairman, Seminole County Board of Commissioners, 1101 East 1st Street, Sanford, FL 32771.	Seminole County Development Review Division, 1101 East 1st Street, Sanford, FL 32771.	Feb. 8, 201	12028
Massachusetts:					
Plymouth (FEMA Docket No.: B–1665.	Town of Mattapoisett (16–01–2222P.	The Honorable R. Tyler Macallister, Chairman, Town of Mattapoisett Board of Selectmen, P.O. Box 435, Mattapoisett, MA 02739.	Building Department, 16 Main Street, Mattapoisett, MA 02739.	Feb. 17, 201 ...	25521
Mississippi:					
Madison (FEMA Docket No.: B–1665.	City of Ridgeland (16–04–1990P.	The Honorable Gene McGee, Mayor, City of Ridgeland, 304 Highway 51, Ridgeland, MS 39157.	City Hall, 304 Highway 51, Ridgeland, MS 39157.	Feb. 10, 201 ...	28011
New Mexico:					
Bernalillo (FEMA Docket No.: B–1665.	City of Albuquerque (16–06–0422P.	The Honorable Richard J. Berry, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, NM 87102.	Development and Building Services Department, 600 2nd Street Northwest, Albuquerque, NM 87102.	Feb. 16, 201 ...	35000
Bernalillo (FEMA Docket No.: B–1665.	Unincorporated areas of Bernalillo County (16–06–0422P.	The Honorable Debbie O'Malley, Chair, Bernalillo County Board of Commissioners, 1 Civic Plaza Northwest, Albuquerque, NM 87102.	Bernalillo County Public Works Division, 2400 Broadway Boulevard Southeast, Albuquerque, NM 87102.	Feb. 16, 201 ...	35000
North Dakota:					
Burleigh (FEMA Docket No.: B–1665.	City of Bismarck (16–08–0336P.	The Honorable Mike Seminary, Mayor, City of Bismarck, 221 North 5th Street, Bismarck, ND 58506.	City Hall, 221 North 5th Street, Bismarck, ND 58506.	Feb. 10, 201 ...	38014
Oklahoma					
Payne (FEMA Docket No.: B–1665.	City of Perkins (16–06–2777P.	The Honorable Jason Shilling, Mayor, City of Perkins, P.O. Box 9, Perkins, OK 74059.	Floodplain Department, 110 North Main Street, Perkins, OK 74059.	Jan. 27, 201 ...	40043
Payne (FEMA Docket No.: B–1665.	Unincorporated areas of Payne County (16–06–2777P.	The Honorable Kent Bradley, Chairman, Payne County Board of Commissioners, 506 Expo Circle South, Stillwater, OK 74074.	Payne County Administrative Building, 315 West 6th Street, Suite 203, Stillwater, OK 74074.	Jan. 27, 201 ...	40049
Pottawatomie (FEMA Docket No.: B–1665.	City of Shawnee (16–06–2100P.	Mr. Justin Erickson, Manager, City of Shawnee, P.O. Box 1448, Shawnee, OK 74801.	City Hall, 16 West 9th Street, Shawnee, OK 74801.	Feb. 15, 201 ...	40017
Pennsylvania:					
Franklin (FEMA Docket No.: B–1665.	Borough of Chambersburg (16–03–0980P.	The Honorable Allen B. Coffman, President, Borough of Chambersburg Council, 100 South 2nd Street, Chambersburg, PA 17201.	Borough Hall, 100 South 2nd Street, Chambersburg, PA 17201.	Feb. 3, 201	42046
Montgomery (FEMA Docket No.: B–1660.	Borough of Conshohocken (16–03–0726P.	Mr. Richard J. Manfredi, Manager, Borough of Conshohocken, 400 Fayette Street, Conshohocken, PA, 19428.	Borough Administration Building, 400 Fayette Street, Conshohocken, PA 19428.	Jan. 30, 201 ...	42094
Montgomery (FEMA Docket No.: B–1660.	Borough of West Conshohocken (16–03–0726P.	The Honorable Joseph Pignoli, President, Borough of West Conshohocken Council, 112 Ford Street, Conshohocken, PA 19428.	Borough Hall, 112 Ford Street, Conshohocken, PA 19428.	Jan. 30, 201 ...	42071
Montgomery (FEMA Docket No.: B–1660.	Township of Plymouth (16–03–0726P.	Ms. Karen B. Weiss, Manager, Township of Plymouth, 700 Belvoir Road, Plymouth Meeting, PA 19462.	Township Hall, 700 Belvoir Road, Plymouth Meeting, PA 19462.	Jan. 30, 201 ...	42095
South Carolina:					
Charleston (FEMA Docket No.: B–1660.	City of Folly Beach (16–04–6421P.	The Honorable Tim Goodwin, Mayor, City of Folly Beach, P.O. Box 48, Folly Beach, SC 29439.	Public Works Department, 21 Center Street, Folly Beach, SC 29439.	Jan. 24, 201 ...	45541
South Dakota:					
Aurora (FEMA Docket No.: B–1665.	City of Plankinton (16–08–0366P.	The Honorable Joe Staller, Mayor, City of Plankinton, P.O. Box 517, Plankinton, SD 57368.	City Hall, 102 South Main Street, Plankinton, SD 57368.	Feb. 3, 201	46000
Aurora (FEMA Docket No.: B–1665.	Unincorporated areas of Aurora County (16–08–0366P.	The Honorable Jeff Sauvage, Chairman, Aurora County Commission, 401 North Main Street, Plankinton, SD 57368.	Aurora County Courthouse, 401 North Main Street, Plankinton, SD 57368.	Feb. 3, 201	46029
Texas:					

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Burnet (FEMA Docket No.: B–1665.	Unincorporated areas of Burnet County (16–06–1135P.	The Honorable James Oakley, Burnet County Judge, 220 South Pierce Street, Burnet, TX 78611.	Burnet County Environmental Services Department, 133 East Jackson Street, Burnet, TX 78611.	Feb. 13, 201 ...	48120
Collin (FEMA Docket No.: B–1665.	City of Wylie (16–06–0594P.	The Honorable Eric Hogue, Mayor, City of Wylie, 300 Country Club Road, Building 100, Wylie, TX 75098.	City Hall, 300 Country Club Road, Building 100, Wylie, TX 75098.	Feb. 9, 201	48075
Collin (FEMA Docket No.: B–1665.	Town of Prosper (16–06–3608P.	The Honorable Ray Smith, Mayor, Town of Prosper, P.O. Box 307, Prosper, TX 75078.	Engineering Services Department, 407 East 1st Street, Prosper, TX 75078.	Feb. 16, 201 ...	48014
Fort Bend (FEMA Docket No.: B–1665.	City of Katy (16–06–1376P	The Honorable Fabol R. Hughes, Mayor, City of Katy, P.O. Box 617, Katy, TX 77493.	Public Works Department, 901 Avenue C, Katy, TX 77493.	Feb. 14, 201 ...	48030
Fort Bend (FEMA Docket No.: B–1665.	Unincorporated areas of Fort Bend County (16–06–1376P.	The Honorable Robert Hebert, Fort Bend County Judge, 401 Jackson Street, Richmond, TX 77469.	Fort Bend County Engineering Department, 301 Jackson Street, Richmond, TX 77469.	Feb. 14, 201 ...	48022
Fort Bend (FEMA Docket No.: B–1665.	Willow Fork Drainage District (16–06–1376P.	The Honorable Richard Ward, President, Willow Fork Drainage District, Board of Directors, 3200 Southwest Freeway, Suite 2600, Houston, TX 7702.	AECOM, 5444 Westheimer Road, Suite 400, Houston, TX 77027.	Feb. 14, 201 ...	48160
Tarrant (FEMA Docket No.: B–1660.	City of Fort Worth (16–06–1735P.	The Honorable Betsy Price, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102.	Transportation and Public Works Department, 1000 Throckmorton Street, Fort Worth, TX 76102.	Jan. 26, 201 ...	4 48059
Williamson (FEMA Docket No.: B–1665.	Unincorporated areas of Williamson County (16–06–1135P.	The Honorable Dan A. Gattis, Williamson County Judge, 710 South Main Street, Suite 101, Georgetown, TX 78626.	Williamson County Department of Infrastructure, 3151 Southeast Inner Loop, Suite B, Georgetown, TX 78626.	Feb. 13, 201 ...	48107
Virginia:					
Albemarle (FEMA Docket No.: B–1665.	Unincorporated areas of Albemarle County (16–03–1207P.	Mr. Thomas C. Foley, Albemarle County Executive, 401 McIntire Road, Charlottesville, VA, 22902.	Albemarle County Community Development/Engineering Department, 401 McIntire Road, Charlottesville, VA, 22902.	Feb. 6, 201	51000
Independent City (FEMA Docket No.: B–1665.	City of Charlottesville (16–03–1207P.	Mr. Maurice Jones, Manager, City of Charlottesville, P.O. Box 911, Charlottesville, VA 22902.	Neighborhood Development Services, 610 East Market Street, Charlottesville, VA 22902.	Feb. 6, 201	51003

[FR Doc. 2017–06677 Filed 4–4–17; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement

Agency Information Collection Activities: Extension, Without Changes, of an Existing Information Collection; Comment Request; OMB Control No. 1653–0020

AGENCY: U.S. Immigration and Customs Enforcement, Department of Homeland Security.

ACTION: 30-Day notice of information collection for review; Form No. G–146; Non-Immigrants Checkout Letter; OMB Control No. 1653–0020.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (USICE) is submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. This information collection was previously published in the **Federal Register** on February 3, 2017, Vol. 82, No. 228 allowing for a 60 day comment period. No comments were received on this information collection. The purpose of this notice is to allow an additional 30 days for public comments.

Written comments and suggestions regarding items contained in this notice and especially with regard to the estimated public burden and associated response time should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for U.S. Immigration and Customs Enforcement, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, without change, of a currently approved information collection.

(2) *Title of the Form/Collection:* Non-Immigrant Checkout Letter.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* ICE Form G–146; U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. When an alien (other than one who is required to depart under safeguards) is granted the privilege of voluntary departure without the issuance of a Notice to Appear, a control card is prepared. If, after a certain period of time, a verification of departure is not received, actions are taken to locate the alien or ascertain his or her whereabouts. Form G–146 is used to inquire of persons in the United States or abroad regarding the whereabouts of the alien.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 20,000 responses at 10 minutes (.16 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 3,220 annual burden hours.

Dated: March 31, 2017.

Scott Elmore,

PRA Clearance Officer, Office of the Chief Information Officer, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. 2017–06698 Filed 4–4–17; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX066A0067F 178S180110; S2D2D SS08011000 SX066A00 33F 17XS501520]

Notice of Proposed Information Collection; Request for Comments for 1029–0091

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSMRE) is announcing its intention to request continued approval for the collection of information associated with surface coal mining and reclamation operations on Indian lands.

DATES: Comments on the proposed information collection must be received by June 5, 2017, to be assured of consideration.

ADDRESSES: Comments may be mailed to John Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Room 203—SIB, Washington, DC 20240. Comments may also be submitted electronically at *jtrelease@osmre.gov.*

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection request contact John Trelease at (202) 208–2783 or by email at *jtrelease@osmre.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. This notice identifies an information collection that OSMRE will be submitting to OMB for renewed approval. The collection is contained in 30 CFR part 750, Requirements for surface coal mining and reclamation operations on Indian lands. OSMRE will request a 3-year term of approval for each information collection activity.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for Part 750 is 1029–0091. Responses are required to obtain a benefit.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSMRE's submission of the information collection request to OMB.

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.

This notice provides the public with 60 days in which to comment on the following information collection activity:

Title: 30 CFR part 750—Requirements for surface coal mining and reclamation operations on Indian lands.

OMB Control Number: 1029–0091.

Summary: Operators who conduct or propose to conduct surface coal mining and reclamation operations on Indian lands must comply with the requirements of 30 CFR 750 pursuant to Section 710 of SMCRA.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: Applicants for coal mining permits on Indian lands.

Total Annual Responses: One new permit, one significant permit revision, 25 minor revisions.

Total Annual Burden Hours: 5,006.

Total Annual Non-Wage Burden: $1,095,400.

Dated: March 13, 2017.

John A. Trelease,

Acting Chief, Division of Regulatory Support.

[FR Doc. 2017–06697 Filed 4–4–17; 8:45 am]

BILLING CODE 4310–05–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–847 and 849 (Third Review)]

Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from Japan and Romania; Scheduling of Full Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the antidumping duty orders on carbon and alloy seamless standard, line, and pressure pipe from Japan and Romania would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission has determined to exercise its authority to extend the review period by up to 90 days.

DATES: Effective March 30, 2017.

FOR FURTHER INFORMATION CONTACT: Lawrence Jones (202–205–3358), 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 these reviews may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On December 5, 2016, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews should proceed (81 FR 91199, December 16, 2016); accordingly, full reviews are being scheduled pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

Participation in the reviews and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of these reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

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 this review available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to these reviews. A party granted access to BPI following publication of the Commission's notice of institution of these reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in these reviews will be placed in the nonpublic record on July 19, 2017, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with these reviews beginning at 9:30 a.m. on August 8, 2017, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before August 1, 2017. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on August 3, 2017, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party to these reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is July 28, 2017. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is August 17, 2017. In addition, any person who has not entered an appearance as a party to these reviews may submit a written statement of information pertinent to the subject of these reviews on or before August 17, 2017. On September 12, 2017, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before September 14, 2017, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's 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.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to these reviews must be served on all other parties to these reviews (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.

The Commission has determined that these reviews are extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: March 31, 2017.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2017–06713 Filed 4–4–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Height-Adjustable Desk Platforms and Components Thereof, DN 3212;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Varidesk LLC on March 30, 2017. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain height-adjustable desk platforms and components thereof. The complaint names as respondents Lumi Legend Corporation of China; Innovative Office Products LLC of Easton, PA; Ergotech Group LLC of Easton, PA; Transform Partners LLC (d/b/a Mount-It!) of San Diego, CA; Monoprice, Inc. of Rancho Cucamonga, CA; Ningbo Loctek Visual Technology Corporation of China; Zhejiang Loctek Smart Drive Technology Co., Ltd. of China; Loctek Inc. of Fremont, CA; Zoxou, Inc. of Fremont, CA; and Flexispot of Livermore CA. The complainant requests that the Commission issue a limited exclusion order, and cease and desist orders upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3212'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: March 31, 2017.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2017–06709 Filed 4–4–17; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Innovation and Opportunity Act; Native American Employment and Training Council

AGENCY: Employment and Training Administration, U. S. Department of Labor.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), as amended, and the Workforce Innovation and Opportunity Act (WIOA), notice is hereby given of the next meeting of the Native American Employment and Training Council (Council), as constituted under WIOA.

DATES: The meeting will begin at 9:00 a.m., (Pacific Daylight Time) on Tuesday, May 23, 2017, and continue until 5:00 p.m. that day. The meeting will reconvene at 9:00 a.m. on Wednesday, May 24, 2017 and adjourn at 12:00 p.m. that day. The period from 3:00 p.m. to 5:00 p.m. on May 23, 2017 is reserved for participation and comment by members of the public.

ADDRESSES: The meeting will be held at the Sheraton Gateway, 6101 West Century Boulevard, Los Angeles, California 90045.

FOR FURTHER INFORMATION CONTACT: Athena R. Brown, DFO, Division of Indian and Native American Programs, Employment and Training Administration, U.S. Department of Labor, Room S–4209, 200 Constitution Avenue NW., Washington, DC 20210. Telephone number (202) 693–3737 (VOICE) (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The meeting will be open to the public. Members of the public not present may submit a written statement on or before May 19, 2017, to be included in the record of the meeting. Statements are to be submitted to Athena R. Brown, Designated Federal Officer (DFO), U.S. Department of Labor, 200 Constitution Avenue NW., Room S–4209, Washington, DC 20210. Persons who need special accommodations should contact Craig Lewis at (202) 693–3384, at least two business days before the meeting. The formal agenda will focus on the following topics: (1) Transition paper; (2) Performance Indicators; (3) U.S. Department of Labor, Employment and Training Administration Update and follow-up on the Implementation of the Workforce Innovation and Opportunity Act (WIOA) of 2014 and Final Rule; (4) Training and Technical Assistance; (5) Council and Workgroup Updates and Recommendations; (6) New Business and Next Steps; and (7) Public Comment.

Signed at Washington, DC, March 17, 2017.

Byron Zuidema,

Deputy Assistant Secretary, Employment and Training Administration.

[FR Doc. 2017–06778 Filed 4–4–17; 8:45 am]

BILLING CODE 4501–FR–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice on Reallotment of Workforce Innovation Opportunity Act (WIOA) Title I Formula Allotted Funds for Dislocated Worker Activities for Program Year (PY) 2016

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Workforce Innovation Opportunity Act (WIOA), requires the Secretary of Labor (Secretary) to conduct reallotment of certain WIOA formula allotted funds based on ETA 9130 financial reports submitted by states as of the end of the prior program year (PY). This notice publishes the dislocated worker PY 2016 funds for recapture by state and the amount to be reallotted to eligible states.

DATES: This notice is effective April 5, 2017.

FOR FURTHER INFORMATION CONTACT: Ms. Amanda Ahlstrand, Administrator, U.S. Department of Labor, Office of Workforce Investment, Employment and Training Administration, Room C–4526, 200 Constitution Avenue NW., Washington, DC. Telephone (202) 693–3052 (this is not a toll-free number) or fax (202) 693–3981.

SUPPLEMENTARY INFORMATION: In the Fiscal Year (FY) 2016 Appropriations Act, Congress appropriated WIOA PY 2016 funds in two portions: (1) Funds available for obligation July 1, 2016 (*i.e.,* PY 2016 ''base'' funds), and (2) funds available for obligation October 1, 2016 (*i.e.,* Fiscal Year (FY) 2017 ''advance'' funds). Together, these two portions make up the complete PY 2016 WIOA funding. Training and Employment Guidance Letter No. 17–15 announced WIOA allotments based on this appropriation and alerted states to the recapture and reallotment of funds' provisions, as required under WIOA Section 132(c). This section of WIOA requires the Secretary of Labor (Secretary) to conduct reallotment of excess unobligated WIOA Adult, Youth, and Dislocated Worker formula funds based on ETA 9130 financial reports submitted by states at the end of the prior program year (*i.e.,* PY 2015).

WIOA regulations at 20 CFR 693.135 describe the procedures the Secretary uses for recapture and reallotment of funds. ETA will not recapture any PY 2016 funds for the Adult and Youth programs because there are no states where PY 2015 unobligated funds exceed the statutory requirements of 20 percent of state allotted funds. However, for the Dislocated Worker program, Kentucky had unobligated PY 2015 funds in excess of 20 percent of its allotment. Therefore, ETA will recapture a total of $805,082 of PY 2016 funding from Kentucky and reallot those funds to the remaining eligible states, as required by WIOA Section 132(c).

ETA will issue a Notice of Award to the states to reflect the recapture and reallotment of these funds. The adjustment of funds will be made to the FY 2017 advance portion of the PY 2016 allotments, which ETA issued in October 2016. The attached tables display the net changes to PY 2016 formula allotments and a description of the reallotment methodology.

WIOA and its implementing regulations do not provide specific requirements by which states must distribute realloted funds, so states have flexibility to determine the methodology used.

For any state subject to recapture of funds, WIOA Section 132(c)(5) requires the Governor to prescribe equitable procedures for reacquiring funds from the state and local areas.

As mentioned, the recapture/reallotment adjustments will be made to the FY 2017 advance portion of the PY 2016 allotment. Therefore, for reporting purposes, states must reflect the recapture/reallotment amount (decrease or increase) in the ''Total Federal Funds Authorized'' line of any affected FY 2017 ETA 9130 financial reports (State Dislocated Worker Activities, Statewide Rapid Response, Local Dislocated Worker Activities) in a manner consistent with the method of distribution of these amounts to state and local areas used by the state. The state must include an explanation of the

adjustment in the remarks section of the adjusted reports.

I. Attachment A

U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION WIOA DISLOCATED WORKER ACTIVITIES PY 2016 REALLOTMENT TO STATES

[02/08/2017]

	Calculating reallotment amount			Impact on PY 2016 allotments		
	Excess unobligated PY 2015 funds to be recaptured from PY 2016 funds	Eligible states' PY 2015 [1] dislocated worker allotments	Reallotment amount for eligible states (based on eligible states' share of PY 2015 allotments)	Total original PY 2016 allotments before reallotment	Recapture/ reallotment adjustment to PY 2016 allotments	Revised total PY 2016 allotments
Alabama	$0	$15,012,219	$12,128	$16,427,975	$12,128	$16,440,103
Alaska	0	2,184,119	1,765	2,854,009	1,765	2,855,774
Arizona **	0	22,511,715	18,187	25,029,051	18,187	25,047,238
Arkansas	0	8,052,059	6,505	7,757,044	6,505	7,763,549
California	0	164,063,131	132,548	169,644,376	132,548	169,776,924
Colorado	0	13,622,336	11,006	12,323,381	11,006	12,334,387
Connecticut	0	13,612,474	10,998	14,353,697	10,998	14,364,695
Delaware	0	2,596,904	2,098	2,349,277	2,098	2,351,375
District of Columbia	0	3,443,627	2,782	4,499,821	2,782	4,502,603
Florida	0	61,786,732	49,918	65,053,785	49,918	65,103,703
Georgia	0	39,981,701	32,301	40,521,426	32,301	40,553,727
Hawaii	0	1,931,277	1,560	1,894,161	1,560	1,895,721
Idaho	0	2,636,879	2,130	2,385,440	2,130	2,387,570
Illinois	0	58,325,151	47,121	52,763,567	47,121	52,810,688
Indiana	0	17,611,408	14,228	17,062,801	14,228	17,077,029
Iowa	0	4,426,239	3,576	4,004,176	3,576	4,007,752
Kansas	0	4,682,959	3,783	4,609,831	3,783	4,613,614
Kentucky	805,082	0	0	14,673,688	(805,082)	13,868,606
Louisiana	0	9,215,660	7,445	12,042,192	7,445	12,049,637
Maine	0	3,592,396	2,902	3,249,844	2,902	3,252,746
Maryland	0	17,549,612	14,178	18,580,386	14,178	18,594,564
Massachusetts	0	21,265,196	17,180	19,237,457	17,180	19,254,637
Michigan	0	40,080,962	32,382	36,259,049	32,382	36,291,431
Minnesota	0	8,332,420	6,732	7,537,884	6,732	7,544,616
Mississippi	0	11,047,184	8,925	11,826,808	8,925	11,835,733
Missouri	0	18,476,297	14,927	17,142,075	14,927	17,157,002
Montana	0	1,699,458	1,373	1,537,406	1,373	1,538,779
Nebraska	0	2,016,308	1,629	1,824,043	1,629	1,825,672
Nevada	0	13,272,377	10,723	14,417,704	10,723	14,428,427
New Hampshire	0	2,355,019	1,903	2,130,457	1,903	2,132,360
New Jersey	0	33,968,534	27,443	38,809,709	27,443	38,837,152
New Mexico **	0	6,691,816	5,406	7,937,300	5,406	7,942,706
New York	0	69,009,253	55,753	62,428,888	55,753	62,484,641
North Carolina	0	31,698,026	25,609	31,022,721	25,609	31,048,330
North Dakota	0	566,170	457	728,444	457	728,901
Ohio	0	33,758,857	27,274	30,539,787	27,274	30,567,061
Oklahoma	0	5,943,501	4,802	5,376,760	4,802	5,381,562
Oregon	0	13,672,401	11,046	14,140,167	11,046	14,151,213
Pennsylvania	0	37,184,902	30,042	36,591,154	30,042	36,621,196
Puerto Rico	0	20,357,210	16,447	25,824,090	16,447	25,840,537
Rhode Island	0	5,533,256	4,470	5,005,633	4,470	5,010,103
South Carolina	0	12,481,973	10,084	16,310,315	10,084	16,320,399
South Dakota	0	856,158	692	1,070,734	692	1,071,426
Tennessee	0	21,507,643	17,376	23,146,617	17,376	23,163,993
Texas	0	55,598,809	44,919	50,297,194	44,919	50,342,113
Utah **	0	2,963,244	2,394	3,143,067	2,394	3,145,461
Vermont	0	806,732	652	890,075	652	890,727
Virginia	0	17,685,631	14,288	16,945,520	14,288	16,959,808
Washington	0	19,533,856	15,782	22,462,284	15,782	22,478,066
West Virginia	0	4,814,588	3,890	6,291,269	3,890	6,295,159
Wisconsin	0	15,763,228	12,735	14,260,128	12,735	14,272,863
Wyoming	0	728,014	588	740,333	588	740,921
State total	805,082	996,507,621	805,082	1,017,955,000	0	1,017,955,000

** Includes Navajo Nation.

[1] PY 2015 allotment amounts are used to determine the reallotment amount eligible states receive of the recaptured amount.

II. Attachment B

U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, WIOA DISLOCATED WORKER ACTIVITIES, PY 2016 REVISED ALLOTMENTS WITH REALLOTMENT—PY/FY SPLIT

[01/27/2017]

	Total allotment			Available 7/1/16			Available 10/1/16		
	Original	Recapture/ reallotment	Revised	Original	Recapture/ reallotment	Revised	Original	Recapture/ reallotment	Revised
Alabama	16,427,975	12,128	16,440,103	2,595,993	.....	2,595,993	13,831,982	12,128	13,844,110
Alaska	2,854,009	1,765	2,855,774	450,998	.....	450,998	2,403,011	1,765	2,404,776
Arizona*	25,029,051	18,187	25,047,238	3,955,158	.....	3,955,158	21,073,893	18,187	21,092,080
Arkansas	7,757,044	6,505	7,763,549	1,225,789	.....	1,225,789	6,531,255	6,505	6,537,760
California	169,644,376	132,548	169,776,924	26,807,663	.....	26,807,663	142,836,713	132,548	142,969,261
Colorado	12,323,381	11,006	12,334,387	1,947,374	.....	1,947,374	10,376,007	11,006	10,387,013
Connecticut	14,353,697	10,998	14,364,695	2,268,210	.....	2,268,210	12,085,487	10,998	12,096,485
Delaware	2,349,277	2,098	2,351,375	371,239	.....	371,239	1,978,038	2,098	1,980,136
District of Columbia	4,499,821	2,782	4,502,603	711,074	.....	711,074	3,788,747	2,782	3,791,529
Florida	65,053,785	49,918	65,103,703	10,279,975	.....	10,279,975	54,773,810	49,918	54,823,728
Georgia	40,521,426	32,301	40,553,727	6,403,305	.....	6,403,305	34,118,121	32,301	34,150,422
Hawaii	1,894,161	1,560	1,895,721	299,320	.....	299,320	1,594,841	1,560	1,596,401
Idaho	2,385,440	2,130	2,387,570	376,954	.....	376,954	2,008,486	2,130	2,010,616
Illinois	52,763,567	47,121	52,810,688	8,337,841	.....	8,337,841	44,425,726	47,121	44,472,847
Indiana	17,062,801	14,228	17,077,029	2,696,310	.....	2,696,310	14,366,491	14,228	14,380,719
Iowa	4,004,176	3,576	4,007,752	632,751	.....	632,751	3,371,425	3,576	3,375,001
Kansas	4,609,831	3,783	4,613,614	728,458	.....	728,458	3,881,373	3,783	3,885,156
Kentucky	14,673,688	(805,082)	13,868,606	2,318,776	.....	2,318,776	12,354,912	(805,082)	11,549,830
Louisiana	12,042,192	7,445	12,049,637	1,902,940	.....	1,902,940	10,139,252	7,445	10,146,697
Maine	3,249,844	2,902	3,252,746	513,549	.....	513,549	2,736,295	2,902	2,739,197
Maryland	18,580,386	14,178	18,594,564	2,936,123	.....	2,936,123	15,644,263	14,178	15,658,441
Massachusetts	19,237,457	17,180	19,254,637	3,039,955	.....	3,039,955	16,197,502	17,180	16,214,682
Michigan	36,259,049	32,382	36,291,431	5,729,753	.....	5,729,753	30,529,296	32,382	30,561,678
Minnesota	7,537,884	6,732	7,544,616	1,191,157	.....	1,191,157	6,346,727	6,732	6,353,459
Mississippi	11,826,808	8,925	11,835,733	1,868,904	.....	1,868,904	9,957,904	8,925	9,966,829
Missouri	17,142,075	14,927	17,157,002	2,708,837	.....	2,708,837	14,433,238	14,927	14,448,165
Montana	1,537,406	1,373	1,538,779	242,945	.....	242,945	1,294,461	1,373	1,295,834
Nebraska	1,824,043	1,629	1,825,672	288,240	.....	288,240	1,535,803	1,629	1,537,432
Nevada	14,417,704	10,723	14,428,427	2,278,325	.....	2,278,325	12,139,379	10,723	12,150,102
New Hampshire	2,130,457	1,903	2,132,360	336,661	.....	336,661	1,793,796	1,903	1,795,699
New Jersey	38,809,709	27,443	38,837,152	6,132,815	.....	6,132,815	32,676,894	27,443	32,704,337
New Mexico*	7,937,300	5,406	7,942,706	1,254,274	.....	1,254,274	6,683,026	5,406	6,688,432
New York	62,428,888	55,753	62,484,641	9,865,182	.....	9,865,182	52,563,706	55,753	52,619,459
North Carolina	31,022,721	25,609	31,048,330	4,902,294	.....	4,902,294	26,120,427	25,609	26,146,036
North Dakota	728,444	457	728,901	115,111	.....	115,111	613,333	457	613,790
Ohio	30,539,787	27,274	30,567,061	4,825,980	.....	4,825,980	25,713,807	27,274	25,741,081
Oklahoma	5,376,760	4,802	5,381,562	849,650	.....	849,650	4,527,110	4,802	4,531,912
Oregon	14,140,167	11,046	14,151,213	2,234,467	.....	2,234,467	11,905,700	11,046	11,916,746
Pennsylvania	36,591,154	30,042	36,621,196	5,782,233	.....	5,782,233	30,808,921	30,042	30,838,963
Puerto Rico	25,824,090	16,447	25,840,537	4,080,792	.....	4,080,792	21,743,298	16,447	21,759,745
Rhode Island	5,005,633	4,470	5,010,103	791,004	.....	791,004	4,214,629	4,470	4,219,099
South Carolina	16,310,315	10,084	16,320,399	2,577,400	.....	2,577,400	13,732,915	10,084	13,742,999
South Dakota	1,070,734	692	1,071,426	169,200	.....	169,200	901,534	692	902,226
Tennessee	23,146,617	17,376	23,163,993	3,657,691	.....	3,657,691	19,488,926	17,376	19,506,302
Texas	50,297,194	44,919	50,342,113	7,948,098	.....	7,948,098	42,349,096	44,919	42,394,015
Utah*	3,143,067	2,394	3,145,461	496,676	.....	496,676	2,646,391	2,394	2,648,785
Vermont	890,075	652	890,727	140,652	.....	140,652	749,423	652	750,075
Virginia	16,945,520	14,288	16,959,808	2,677,777	.....	2,677,777	14,267,743	14,288	14,282,031
Washington	22,462,284	15,782	22,478,066	3,549,551	.....	3,549,551	18,912,733	15,782	18,928,515
West Virginia	6,291,269	3,890	6,295,159	994,163	.....	994,163	5,297,106	3,890	5,300,996
Wisconsin	14,260,128	12,735	14,272,863	2,253,424	.....	2,253,424	12,006,704	12,735	12,019,439
Wyoming	740,333	588	740,921	116,989	.....	116,989	623,344	588	623,932
State Total	1,017,955,000	.....	1,017,955,000	160,860,000	.....	160,860,000	857,095,000	.....	857,095,000

* Includes funds allocated to the Navajo Nation.

III. Attachment C

Dislocated Worker (DW) State Formula PY 2016 Reallotment Methodology

Reallotment Summary: This year the Employment and Training Administration (ETA) analyzed Dislocated Worker ETA 9130 financial reports from the June 30, 2016 reporting period for funds provided to states in PY 2015, to determine if any state had unobligated funds in excess of 20 percent of their PY 2015 allotment amount. If so, ETA will recapture that amount from PY 2016 funds and reallot the recaptured funds among eligible states.

- *Source Data:* ETA 9130 financial reports.
- *Programs:* State Dislocated Worker, Statewide Rapid Response, Local Dislocated Worker.
- *Period:* June 30, 2016.
- *Years covered:* PY 2015 and FY 2016.

Reallotment Calculation Process

1. *Determine each state's unobligated balance:* ETA computes the state's total amount of PY 2015 state obligations (including FY 2016 funds) for the DW program. State obligations are the sum of DW statewide activities obligations, Statewide Rapid Response obligations, and 100 percent of what the state authorizes for DW local activities (which includes program and administrative funds). To determine the

unobligated balance for the DW program, ETA subtracts the total DW obligations amount from the state's total PY 2015 DW allotment (Note: for this process, ETA adds DW allotted funds transferred to the Navajo Nation back to Arizona, New Mexico, and Utah local DW authorized amounts).

2. *Excluding state administrative costs:* Section 683.135 of the regulations provides that the recapture calculations exclude the reserve for state administration which is part of the DW statewide activities. States do not report data on state administrative amounts authorized and obligated on the ETA 9130 financial reports. In the preliminary calculation, to determine states potentially liable for recapture, ETA estimates the DW portion of the state administrative amount authorized by calculating the five percent maximum amount for state DW administrative costs using the DW state allotment amounts (excluding any recapture/reallotment that occurred). ETA treats 100 percent of the state's estimated amount authorized for administration as obligated, although the estimate of state administration obligations is limited by reported statewide activities obligations overall.

3. *Follow-up with states potentially liable for recapture:* ETA requests that those states potentially liable for recapture provide additional data on state administrative amounts which are not regularly reported on the PY 2015 and FY 2016 statewide activities reports. The additional information requested includes the amount of statewide activities funds the state authorized and obligated for state administration as of June 30, 2016. If a state provides actual state DW administrative costs, authorized and obligated, in the comments section of revised ETA 9130 reports, this data replaces the estimates. Based on the requested actual data submitted by potentially liable states on revised reports, ETA reduces the DW total allotment for these states by the amount states indicate they authorized for state administrative costs. Likewise, ETA reduces the DW total obligations for these states by the portion actually obligated for state administration.

4. *Recapture calculation:* States (including those adjusted by actual state administrative data) with *unobligated balances* exceeding 20 percent of the total PY 2015 DW allotment amount (including PY 2015 ''base'' funds and FY 2016 ''advance'' funds) will have their PY 2016 DW funding (from the FY 2017 ''advance'' portion) reduced (recaptured) by the amount of the excess.

5. *Reallotment calculation:* Finally, states with unobligated balances which do *not* exceed 20 percent (eligible states) will receive a share of the total recaptured amount (based on their share of the total PY 2015 (including their PY 2015 ''base'' and FY 2016 ''advance'' amount DW allotments) in their PY 2016 DW funding (in the FY 2017 ''advance'' portion).

Signed at Washington, DC, this March 15, 2017.

Byron Zuidema,

Deputy Assistant Secretary for the Employment and Training Administration.

[FR Doc. 2017–06779 Filed 4–4–17; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2017–0005]

Electric Power Generation, Transmission, and Distribution Standards for Construction and General Industry and Electrical Protective Equipment Standards for Construction and General Industry; Extension of the Office of Management and Budget's (OMB) Approval of Collections of Information

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its request for an extension of the collections of information specified in its standards on the Electric Power Generation, Transmission, and Distribution for Construction and General Industry and Electrical Protective Equipment Standards for Construction and General Industry.

DATES: Comments must be submitted (postmarked, sent, or received) by June 5, 2017.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2017–0005, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW., Washington, DC 20210.

Deliveries (*hand, express mail, messenger, and courier service*) are accepted during the Department of Labor's and Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number (OSHA–2017–0005) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information

collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The Electrical Protective Equipment Standard (29 CFR 1926.97 and 29 CFR 1910.137) and the Electric Power Generation, Transmission, and Distribution Standard (29 CFR 1926 and 29 CFR 1910.269) specify several collections of information. The following describes the collections of information contained in the standards and addresses who will use the information.

Electrical Protective Equipment Standard (§§ 1926.97 and 1910.137)

Testing Certification (§§ 1926.97(c)(2)(xii) and 1910.137(c)(2)(xii))

Employers must certify that the electrical protective equipment used by their workers have passed the tests specified in paragraphs (c)(2)(vii)(D), (c)(2)(viii), (c)(2)(ix), and (c)(2)(xi) of the standards. The certification must identify the equipment that passed the tests and the dates of the tests. The two standards require testing: Periodically (generally, every 6 months for rubber insulating gloves and every 12 months for most other types of rubber insulating equipment); after any repairs; and before the equipment is returned to service after any inspection finds certain defects. In addition, the employer must test rubber insulating gloves before reuse after employees use them without protector gloves and must certify that testing. These performance-based standards ensure that employers maintain the most recent test records for equipment that passes the required tests without specifying precisely how the employer must maintain those records.

Electric Power Generation, Transmission, and Distribution Standard (§§ 1926.950 and 1910.269)

Host Employer Responsibilities (§§ 1926.950(c)(1) and 1910.269(a)(3)(i))

Before work begins, the host employer must inform the contract employers of: The characteristics of the host employer's installation listed; conditions listed in paragraphs of this section that are known to the host employer; information about the design and operation of the host employer's installation that the contract employer needs to make the assessments required by this section; and any other information about the design and operation of the host employer's installation that is known by the host employer, that the contract employer requests, and that is related to the protection of the contract employer's employees.

Contract Employer Responsibilities (§§ 1926.950(c)(2) and 1910.269(a)(3)(ii))

Contract employers must ensure that each of its employees is instructed in the hazardous conditions relevant to the employee's work that the contract employer is aware of as a result of information communicated to the contract employer by the host employer; before work begins, the contract employer must advise the host employer of any unique hazardous conditions presented by the contract employer's work; and the contract employer must advise the host employer of any unanticipated hazardous conditions found during the contract employer's work that the host employer did not mention. The contract employer shall provide this information to the host employer within two working days after discovering the hazardous condition.

Job Briefing (§§ 1926.952(a)(1) and 1910.269(c)(1)(i))

In assigning an employee or a group of employees to perform a job, the employer must provide the employee in charge of the job with all available information that relates to the determination of existing characteristics and conditions required by (§§ 1926.950(d) and1910.269(a)(4)).

Engineering Analyses To Determine Maximum Anticipated Per-Unit Transient Overvoltage (§§ 1926.960(c)(1)(ii) and 1910.269(l)(3)(ii))

The employer must determine the maximum anticipated per-unit transient overvoltage, phase-to-ground, through an engineering analysis or assume a maximum anticipated per-unit transient overvoltage, phase-to-ground, in accordance with the tables listed. When the employer uses portable protective gaps to control the maximum transient overvoltage, the value of the maximum anticipated per-unit transient overvoltage, phase-to-ground, must provide for five standard deviations between the statistical sparkover voltage of the gap and the statistical withstand voltage corresponding to the electrical component of the minimum approach distance. The employer must make available upon request to employees and to the Assistant Secretary or designee for examination and copying; any engineering analysis conducted to determine maximum anticipated per-unit transient overvoltage.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed collections of information are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the collections of information, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the collections of information contained in the Standards on Electric Power Generation, Transmission, and Distribution for Construction and General Industry (29 CFR part 1926, subpart V and 29 CFR 1910.269) and the Electrical Protective Equipment Standards for Construction and General Industry (29 CFR 1926.97 and 29 CFR 1910.137). The Agency is proposing to decrease the burden hours in the currently approved information collection request from 452,091 hours to 365,094 hours (a total decrease of 86,997 hours). The decrease is a result of a determination that the estimated number of establishments affected has declined. Also, the decrease is due to the removal of burden hours associated with OSHA requests to access records from employers. Usually, OSHA requests access to records during an inspection. Information collected by the Agency during the investigation is not subject to the PRA under 5 CFR 1320.4(a)(2). Therefore, OSHA takes no burden or cost for OSHA requests to access records in this Supporting Statement. The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB.

Type of Review: Extension of a currently approved information collection.

Title: Electric Power Generation, Transmission, and Distribution Standards for Construction and General Industry and Electrical Protective Equipment for Construction and General.

OMB Control Number: 1218–0253.

Affected Public: Business or other for-profits.

Number of Respondents: 19,746.

Total Responses: 952,348.

Frequency of Responses: On occasion; semi-annually; annually.

Average Time per Response: Various.

Estimated Total Burden Hours: 365,094.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2017–0005). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so that the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

Dorothy Dougherty, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on March 28, 2017.

Dorothy Dougherty,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2017–06767 Filed 4–4–17; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0035]

The Ethylene Oxide (EtO) Standard (Extension of the Office of Management and Budget's (OMB) Approval of Collections of Information (Paperwork) Requirements)

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Ethylene Oxide Standard (EtO).

DATES: Comments must be submitted (postmarked, sent, or received) by June 5, 2017.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit your comments and attachments to the OSHA Docket Office, (Docket No. OSHA–2009–0035), Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., e.t.

Instructions: All submissions must include the Agency name and the OSHA docket number (OSHA–2009–0035) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You also may contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and

OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires OSHA to obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The EtO Standard (29 CFR 1910.1047) specifies a number of paperwork requirements. The following is a brief description of the collection of information requirements contained in the standard.

The information collection requirements specified in the Ethylene Oxide Standard protect workers from the adverse health effects that may result from occupational exposure to ethylene oxide. The principal information collection requirements in the EtO Standard include conducting worker exposure monitoring, notifying workers of the exposure, implementing a written compliance program, and implementing medical surveillance of workers. Also, the examining physician must provide specific information to ensure that workers receive a copy of their medical examination results. The employer must maintain exposure-monitoring and medical records for specific periods, and provide access to these records by OSHA, the National Institute for Occupational Safety and Health, the affected workers, and their authorized representatives and other designated parties.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply (for example, by using automated or other technological information collection and transmission techniques).

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements specified in the Ethylene Oxide Standard. The Agency is requesting an overall adjustment decrease of burden hours, from 35,051 to 27,880 burden hours. The decrease in burden hours is primarily due to a decrease in the number of establishments covered by the Standard. The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Ethylene Oxide (29 CFR 1910.1047).

OMB Control Number: 1218–0108.

Affected Public: Business or other for-profits.

Number of Respondents: 1,869.

Frequency of Response: Initially, annually; on occasion.

Total Responses: 148,443.

Average Time per Response: Various.

Burden Hours: 27,880.

Estimated Cost (Operation and Maintenance): $4,250,569.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile; or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for this ICR (Docket No. OSHA–2009–0035). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so that the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User tips'' link. Contact the OSHA Docket Office for information about materials not available from the Web site, and for assistance in using the Internet to locate docket submission.

V. Authority and Signature

Dorothy Dougherty, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on March 29, 2017.

Dorothy Dougherty,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2017–06763 Filed 4–4–17; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0028]

MET Laboratories, Inc.: Grant of Expansion of Recognition and Modification to the NRTL Program's List of Appropriate Test Standards

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces its final decision to expand the scope of recognition for MET Laboratories, Inc., as a Nationally Recognized Testing Laboratory (NRTL).

DATES: The expansion of the scope of recognition becomes effective on April 5, 2017.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of

Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; telephone: (202) 693–2110; email: *robinson.kevin@dol.gov.* OSHA's Web page includes information about the NRTL Program (see *http://www.osha.gov/dts/otpca/nrtl/index.html*).

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of MET Laboratories, Inc. (MET), as a NRTL. MET's expansion covers the addition of five test standards to its scope of recognition, including one test standard that will be added to the NRTL List of Appropriate Test Standards.

OSHA recognition of an NRTL signifies that the organization meets the requirements specified by 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification of the products.

The Agency processes applications by a NRTL for initial recognition, or for expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL that details its scope of recognition. These pages are available from the Agency's Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

MET submitted five applications, four dated July 7, 2015 (OSHA–2006–0028–0026), (OSHA–2006–0028–0027), (OSHA–2006–0028–0028), (OSHA–2006–0028–0029) and one dated August 4, 2015 (OSHA–2006–0028–0025), to expand its recognition to include five additional test standards. OSHA staff performed a comparability analysis and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

OSHA published the preliminary notice announcing MET's expansion application in the **Federal Register** on November 15, 2016 (81 FR 80089). The Agency requested comments by November 30, 2016, but it received no comments in response to this notice. OSHA now is proceeding with this final notice to grant expansion of MET's scope of recognition.

To obtain or review copies of all public documents pertaining to the MET's application, go to *www.regulations.gov* or contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210. Docket No. OSHA–2006–0028 contains all materials in the record concerning MET's recognition.

II. Final Decision and Order

OSHA staff examined MET's expansion applications, its capability to meet the requirements of the test standards, and other pertinent information. Based on its review of this evidence, OSHA finds that MET meets the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitation and conditions listed below. OSHA, therefore, is proceeding with this final notice to grant MET's scope of recognition. OSHA limits the expansion of MET's recognition to testing and certification of products for demonstration of conformance to the test standards listed in Table 1 below.

TABLE 1—LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN MET'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 62368–1	Audio/Video, Information and Communication Technology Equipment—Part 1: Safety Requirements.
UL 60079–0	Explosive Atmospheres—Part 0: Equipment—General Requirements.
UL 60079–2	Explosive Atmospheres—Part 2: Equipment Protection by Pressurized Enclosure "p".
UL 60079–11	Explosive Atmospheres—Part 11: Equipment Protection by Intrinsic Safety "i".
UL 60079–15	Explosive Atmospheres—Part 15: Equipment Protection by Type of Protection "n".

In this notice, OSHA also announces the addition of a new test standard to the NRTL Program's List of Appropriate Test Standards. Table 2, below, lists the test standard that is new to the NRTL Program. OSHA has determined that this test standard is an appropriate test standard and will include it in the NRTL Program's List of Appropriate Test Standards.

TABLE 2—TEST STANDARD OSHA IS ADDING TO THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Test standard	Test standard title
UL 60079–2	Explosive Atmospheres—Part 2: Equipment Protection by Pressurized Enclosure "p".

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for which OSHA does not require such testing and certification, an NRTL's scope of recognition does not include these products.

The American National Standards Institute (ANSI) may approve the test standards listed above as American National Standards. However, for convenience, we may use the designation of the standards-developing organization for the standard as opposed to the ANSI designation. Under the NRTL Program's policy (see OSHA Instruction CPL 1–0.3, Appendix C, paragraph XIV), any NRTL recognized for a particular test standard may use either the proprietary version of the test standard or the ANSI version of that standard. Contact ANSI to determine whether a test standard is currently ANSI-approved.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, MET must abide by the following conditions of the recognition:

1. MET must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as a NRTL, and provide details of the change(s);

2. MET must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and

3. MET must continue to meet the requirements for recognition, including all previously published conditions on MET's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope of recognition of MET, subject to the limitation and conditions specified above.

III. Authority and Signature

Dorothy Dougherty, Deputy Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on March 22, 2017.

Dorothy Dougherty,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2017–06765 Filed 4–4–17; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Advisory Board on Toxic Substances and Worker Health

AGENCY: Office of Workers' Compensation Programs, Department of Labor.

ACTION: Announcement of meeting of the Advisory Board on Toxic Substances and Worker Health (Advisory Board) for the Energy Employees Occupational Illness Compensation Program Act (EEOICPA).

SUMMARY: The Advisory Board will meet April 19–20, 2017, in Richland, Washington. Comments, requests to speak, submissions of materials for the record, and requests for special accommodations: You must submit (postmark, send, transmit) comments, requests to address the Advisory Board, speaker presentations, and requests for special accommodations for the meetings by April 12, 2017.

ADDRESSES: The Advisory Board will meet at the Red Lion Richland Hanford House, 802 George Washington Way, Richland, Washington 99352, phone 509–946–7611.

Submission of comments, requests to speak and submissions of materials for the record: You may submit comments, materials, and requests to speak at the Advisory Board meeting, identified by the Advisory Board name and the meeting date of April 19–20, 2017, by any of the following methods:

• *Electronically:* Send to: *EnergyAdvisoryBoard@dol.gov* (specify in the email subject line, for example ''Request to Speak: Advisory Board on Toxic Substances and Worker Health'').

• *Mail, express delivery, hand delivery, messenger, or courier service:* Submit one copy to the following address: U.S. Department of Labor, Office of Workers' Compensation Programs, Advisory Board on Toxic Substances and Worker Health, Room S–3522, 200 Constitution Ave. NW., Washington, DC 20210.

Requests for special accommodations: Please submit requests for special accommodations to attend the Advisory Board meeting by email, telephone, or hard copy to Ms. Carrie Rhoads, OWCP, Room S–3524, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210; telephone (202) 343–5580; email *EnergyAdvisoryBoard@dol.gov.*

Your submissions must include the Agency name (OWCP), the committee name (the Advisory Board), and the meeting date (April 19–20, 2017). Due to security-related procedures, receipt of submissions by regular mail may experience significant delays. For additional information about submissions, see the **SUPPLEMENTARY INFORMATION** section of this notice.

OWCP will make available publically, without change, any comments, requests to speak, and speaker presentations, including any personal information that you provide. Therefore, OWCP cautions interested parties against submitting personal information such as Social Security numbers and birthdates.

FOR FURTHER INFORMATION CONTACT: For press inquiries: Ms. Amy Louviere, Office of Public Affairs, U.S. Department of Labor, Room S–1028, 200 Constitution Ave. NW., Washington, DC 20210; telephone (202) 693–4672; email *Louviere.Amy@DOL.GOV.*

SUPPLEMENTARY INFORMATION: The Advisory Board will meet: Tuesday, April 18, 2017, all day for a fact-finding site visit of the Hanford Site, accompanied by the Designated Federal Officer; Wednesday, April 19, 2017, from 8:30 a.m. to 6:00 p.m. Pacific time; and Thursday, April 20, 2017, from 8:00 a.m. to 11:00 a.m. Pacific time in Richland, Washington. Some Advisory Board members may attend the meeting by teleconference. The teleconference number and other details for participating remotely will be posted on the Advisory Board's Web site, *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm,* 72 hours prior to the commencement of the first meeting date. Advisory Board meetings are open to the public.

Public comment session: Wednesday, April 19, 2017, from 4:30 p.m. to 6:00 p.m. Pacific time. Please note that the public comment session ends at the time indicated or following the last call for comments, whichever is earlier. Members of the public who wish to provide public comments should plan to attend the public comment session (in person or remotely) at the start time listed.

The Advisory Board is mandated by Section 3687 of EEOICPA. The Secretary of Labor established the Board under this authority and Executive Order 13699 (June 26, 2015). The purpose of the Advisory Board is to advise the Secretary with respect to: (1) The Site Exposure Matrices (SEM) of the Department of Labor; (2) medical guidance for claims examiners for claims with the EEOICPA program, with respect to the weighing of the medical evidence of claimants; (3) evidentiary requirements for claims under Part B of EEOICPA related to lung disease; and

(4) the work of industrial hygienists and staff physicians and consulting physicians of the Department of Labor and reports of such hygienists and physicians to ensure quality, objectivity, and consistency. The Advisory Board sunsets on December 19, 2019.

The Advisory Board operates in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) and its implementing regulations (41 CFR part 102–3).

Agenda: The tentative agenda for the Advisory Board meeting includes:

- Discussion by the subcommittee on the Site Exposure Matrices (SEM);
- Discussion by the subcommittee on Medical Advice re: Weighing Medical Evidence;
- Discussion by the subcommittee on Evidentiary Requirements for Part B Lung Disease;
- Discussion by the subcommittee on IH & CMC and Their Reports;
- Discussion by the Working Group on Presumptions;
- Update on Recommendations submitted after the October 2016 Advisory Board meeting;
- Consideration of any new issues;
- Administrative issues raised by Advisory Board functions and future Advisory Board activities; and
- Public comments.

OWCP transcribes and prepares detailed minutes of Advisory Board meetings. OWCP posts the transcripts and minutes on the Advisory Board Web page, *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm,* along with written comments, speaker presentations, and other materials submitted to the Advisory Board or presented at Advisory Board meetings.

Public Participation, Submissions and Access to Public Record

Advisory Board meetings: All Advisory Board meetings are open to the public. Information on how to participate in the meeting remotely will be posted on the Advisory Board's Web site.

Individuals requesting special accommodations to attend the Advisory Board meeting should contact Ms. Rhoads.

Submission of comments: You may submit comments using one of the methods listed in the **ADDRESSES** section. Your submission must include the Agency name (OWCP) and date for this Advisory Board meeting (April 19–20, 2017). OWCP will post your comments on the Advisory Board Web site and provide your submissions to Advisory Board members.

Because of security-related procedures, receipt of submissions by regular mail may experience significant delays.

Requests to speak and speaker presentations: If you want to address the Advisory Board at the meeting you must submit a request to speak, as well as any written or electronic presentation, by April 12, 2017, using one of the methods listed in the **ADDRESSES** section. Your request may include:

- The amount of time requested to speak;
- The interest you represent (*e.g.,* business, organization, affiliation), if any; and
- A brief outline of the presentation.

PowerPoint presentations and other electronic materials must be compatible with PowerPoint 2010 and other Microsoft Office 2010 formats. The Advisory Board Chair may grant requests to address the Board as time and circumstances permit.

Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This notice, as well as news releases and other relevant information, are also available on the Advisory Board's Web page at *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm.*

For further information, you may contact Douglas Fitzgerald, Designated Federal Officer, at *fitzgerald.douglas@dol.gov,* or Carrie Rhoads, Alternate Designated Federal Officer, at *rhoads.carrie@dol.gov,* U.S. Department of Labor, 200 Constitution Avenue NW., Suite S–3524, Washington, DC 20210, telephone (202) 343–5580. This is not a toll-free number.

Dated: March 29, 2017.

Gary Steinberg,

Deputy Director, Office of Workers' Compensation Programs.

[FR Doc. 2017–06714 Filed 4–4–17; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Division of Federal Employees' Compensation Proposed Extension of Existing Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Workers' Compensation Programs is soliciting comments concerning the proposed collection: Claim for Continuance of Compensation (CA–12). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before June 5, 2017.

ADDRESSES: Ms. Yoon Ferguson, U.S. Department of Labor, 200 Constitution Ave. NW., Room S–3323, Washington, DC 20210, telephone/fax (202) 354–9647, Email *Ferguson.Yoon@dol.gov.* Please use only one method of transmission for comments (mail, fax, or Email).

SUPPLEMENTARY INFORMATION:

I. Background

The Office of Workers' Compensation Programs administers the Federal Employees' Compensation Act, 5 U.S.C. 8133. Under the Act, eligible dependents of deceased employees receive compensation benefits on account of the employee's death. OWCP has to monitor death benefits for current marital status, potential for dual benefits, and other criteria for qualifying as a survivor under the law. The CA–12 is sent annually to beneficiaries in death cases to verify that their status has not changed and that they remain entitled to benefits. The information collected is used by OWCP claims examiners to help ensure that death benefits being paid are correct, and that payments are not made to ineligible survivors. This information collection is currently approved for use through July 31, 2017.

II. Review Focus

The Department of Labor is particularly interested in comments which:

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

* evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used;

* enhance the quality, utility and clarity of the information to be collected; and

* minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Actions

The Department of Labor seeks extension of approval to collect this information collection in order to ensure that death benefits being paid are correct.

Type of Review: Extension.

Agency: Office of Workers' Compensation Programs.

Title: Claim for Continuance of Compensation.

OMB Number: 1240–0015.

Agency Number: CA–12.

Affected Public: Individuals or households.

Total Respondents: 3,552.

Total Annual Responses: 3,552.

Average Time per Response: 5 minutes.

Estimated Total Burden Hours: 295.

Frequency: Annually.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $1,847.

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

Dated: March 28, 2017.

Yoon Ferguson,

Agency Clearance Officer, Office of Workers' Compensation Programs, US Department of Labor.

[FR Doc. 2017–06782 Filed 4–4–17; 8:45 am]

BILLING CODE 4510–CH–P

LEGAL SERVICES CORPORATION

Legal Services Corporation Performance Criteria; Request for Comments on Performance Area 4

AGENCY: Legal Services Corporation.

ACTION: Request for comments.

SUMMARY: The Legal Services Corporation (LSC) is in the process of revising the Performance Criteria that LSC uses to evaluate the quality of legal assistance provided by its grantees. LSC is seeking comments on the proposed changes to Performance Area 4, ''Effectiveness of governance, leadership, and administration.''

DATES: All comments must be received on or before the close of business on May 29, 2017.

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

- *Agency Web site: http://www.lsc.gov/about-lsc/matters-comment*
- *Email: performancecriteria@lsc.gov*
- *Fax:* (202) 337–6813
- *Mail:* Legal Services Corporation, 3333 K Street NW., Washington, DC 20007.

Instructions: All comments should be addressed to Zoe Osterman, Project Coordinator for the Executive Office, Legal Services Corporation. Include ''Revisions to Performance Area 4'' as the heading or subject line for all comments submitted.

FOR FURTHER INFORMATION CONTACT: Zoe Osterman, *ostermanz@lsc.gov,* (202) 295–1617.

SUPPLEMENTARY INFORMATION: As an entity created and funded by Congress, LSC has the statutory responsibility to ensure that recipients of LSC funds provide economical and effective legal assistance to eligible individuals in all parts of the country, including U.S. territories. With this goal in mind, LSC adopted the Performance Criteria in 1995. LSC last revised the Performance Criteria in 2007.

Beginning in 2016, LSC initiated a process to revise the Performance Criteria. LSC started with Performance Area 4, ''Effectiveness of governance, leadership, and administration.'' LSC established an internal working group and an external advisory committee comprised of board governance experts, judges, executive directors and former board members of LSC recipients, and representatives from the American Bar Association and the National Legal Aid and Defender Association. These groups worked to identify criteria within Performance Area 4 in need of revisions, best practices in nonprofit governance, and the strengths and weaknesses of proposed revisions. LSC also consulted with the advisory committee to identify the best ways to ensure recipient compliance with the Performance Criteria and the best tools for monitoring recipient board governance and leadership performance. This process culminated in the creation of charts, broken down by criteria, that show the existing indicators and the areas of inquiry LSC uses to evaluate recipients' performance on each indicator the proposed new indicators and areas of inquiry, and sources of support for each proposed change.

LSC now seeks public comment on the proposed changes to Performance Area 4 described in the chart. Black font indicates language in the current performance criteria and red font indicates proposed language. The charts will be available at *http://www.lsc.gov/about-lsc/matters-comment* beginning March 31, 2017.

LSC is following a similar process to revise Performance Criteria 1–3. Additional information and opportunity to comment on the revisions to Performance Criteria 1–3 will be provided in future **Federal Register** notices.

Dated: March 30, 2017.

Stefanie K. Davis,

Assistant General Counsel.

[FR Doc. 2017–06681 Filed 4–4–17; 8:45 am]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

Sunshine Act Meetings

DATE AND TIME: The Legal Services Corporation's Institutional Advancement Committee and Communications Sub-Committee of the Institutional Advancement Committee will meet telephonically on April 10, 2017. The meeting will commence at 3:00 p.m., EDT, and will continue until the conclusion of the Committee's agenda.

LOCATION: John N. Erlenborn Conference Room, Legal Services Corporation Headquarters, 3333 K Street NW., Washington, DC 20007.

PUBLIC OBSERVATION: Members of the public who are unable to attend in person but wish to listen to the public proceedings may do so by following the telephone call-in directions provided below.

CALL-IN DIRECTIONS FOR OPEN SESSIONS:

- *Call toll-free number:* 1–866–451–4981;
- When prompted, enter the following numeric pass code: 5907707348.
- Once connected to the call, your telephone line will be *automatically* ''MUTED''.
- To participate in the meeting during public comment press #6 to ''UNMUTE'' your telephone line, once you have concluded your comments please press *6 to ''MUTE'' your line.

Members of the public are asked to keep their telephones muted to eliminate background noises. To avoid disrupting the meeting, please refrain from placing the call on hold if doing so

will trigger recorded music or other sound. From time to time, the Chair may solicit comments from the public.

STATUS OF MEETINGS: Open, except as noted below.

Institutional Advancement Committee—Open, except that, upon a vote of the Committee members, the meeting may be closed to the public to consider and act on recommendation of new Leaders Council invitees.*

* Any portion of the closed session consisting solely of briefings does not fall within the Sunshine Act's definition of the term ''meeting'' and, therefore, the requirements of the Sunshine Act do not apply to such portion of the closed session. 5 U.S.C. 552b (a) (2) and (b). *See also* 45 CFR 1622.2 & 1622.3.

A verbatim written transcript will be made of the closed session of the Institutional Advancement Committee meeting. The transcript of any portions of the closed session falling within the relevant provisions of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(6) and (10), will not be available for public inspection. A copy of the General Counsel's Certification that, in his opinion, the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

Combined Institutional Advancement Committee and Communications Sub-Committee of the Institutional Advancement Committee

Open Session

1. Approval of agenda
2. Leaders Council Update
3. Communications update
4. Public comment
5. Consider and act on other business
6. Consider and act on motion to adjourn the open session meeting and proceed to closed session.

Closed Session

7. Consider and act on motion to approve Leaders Council invitees
8. Consider and act on other business
9. Consider and act on motion to adjourn the meeting

CONTACT PERSON FOR INFORMATION: Katherine Ward, Executive Assistant to the Vice President & General Counsel, at (202) 295–1500. Questions may be sent by electronic mail to *FR_NOTICE_QUESTIONS@lsc.gov.*

ACCESSIBILITY: LSC complies with the Americans with Disabilities Act and Section 504 of the 1973 Rehabilitation Act. Upon request, meeting notices and materials will be made available in alternative formats to accommodate individuals with disabilities. Individuals needing other accommodations due to disability in order to attend the meeting in person or telephonically should contact Katherine Ward, at (202) 295–1500 or *FR_NOTICE_QUESTIONS@lsc.gov,* at least 2 business days in advance of the meeting. If a request is made without advance notice, LSC will make every effort to accommodate the request but cannot guarantee that all requests can be fulfilled.

Dated: April 3, 2017.

Katherine Ward,

Executive Assistant to the Vice President for Legal Affairs and General Counsel.

[FR Doc. 2017–06876 Filed 4–3–17; 4:15 pm]

BILLING CODE 7050–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0006]

Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Licenses of Broad Scope

AGENCY: Nuclear Regulatory Commission.

ACTION: NUREG; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued Revision 1 to NUREG–1556, Volume 11, ''Consolidated Guidance about Materials Licenses: Program-Specific Guidance about Licenses of Broad Scope,'' which updates licensing guidance for broad scope licenses. This document has been revised to include information on updated regulatory requirements, safety culture, security of radioactive materials, protection of sensitive information, and changes in regulatory policies and practices. The document is intended for use by applicants, licensees, and the NRC staff.

DATES: NUREG–1556, Volume 11, Revision 1 is available April 5, 2017.

ADDRESSES: Please refer to Docket ID number NRC–2014–0006 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID number NRC–2014–0006. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. NUREG–1556, Volume 11, Revision 1 is available in ADAMS under Accession No. ML17059D332.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Anthony McMurtray, Office of Nuclear Material Safety and Safeguards; U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2746; email: *Anthony.McMurtray@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC issued a revision to NUREG–1556, Volume 11, to provide guidance to existing broad scope materials licensees and to applicants preparing an application for a broad scope materials license. This NUREG volume also provides the NRC staff with criteria for evaluating these license applications. The purpose of this notice is to notify the public that the NUREG–1556 volume listed in this document was issued as a Final Report.

II. Additional Information

The NRC published a notice of the availability of the Draft Report for Comment version of NUREG–1556, Volume 11, Revision 1 in the **Federal Register** on January 27, 2014 (79 FR 4360) for a 30-day public comment period. The public comment period closed on February 26, 2014. Public comments on NUREG–1556, Volume 11, Revision 1 and the NRC staff's responses to the public comments are available under ADAMS Accession No. ML15357A092.

III. Congressional Review Act

This NUREG volume is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has

not found this NUREG revision to be a major rule as defined in the Congressional Review Act.

Dated at Rockville, Maryland, this 27th day of March, 2017.

For the U.S. Nuclear Regulatory Commission.

Daniel S. Collins,

Director, Division of Material Safety, State, Tribal and Rulemaking Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2017–06735 Filed 4–4–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0016]

Guidance for Developing Principal Design Criteria for Non-Light Water Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; extension of comment period.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is providing additional information for a notice published in the **Federal Register** on February 3, 2017, issuing draft regulatory guide (DG), DG–1330, ''Guidance for Developing Principal Design Criteria for Non-Light Water Reactors,'' for a 60-day public comment period. This action is necessary to inform the public that a paragraph was inadvertently omitted from the ''NRC Rationale for Adaptions to GDC'' section of General Design Criterion (GDC) 26, ''Reactivity Control Systems,'' in Appendices A, B, and C of DG–1330, and provides the NRC's Agencywide Documents Access and Management System (ADAMS) accession numbers for the DG and the regulatory analysis for the DG. The NRC is also extending the public comment period for an additional 15 days to allow stakeholders time to review the change and provide comments.

DATES: The due date for comments requested in the FR notice published on February 3, 2017 (82 FR 9246), is extended. Comments should be submitted by April 20, 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 obtain information and comment submissions related to this document, which the NRC possesses and are publicly available, by searching on *http://www.regulations.gov* under Docket ID NRC–2017–0016 or draft regulatory guide DG–1330. You may submit comments by any of the following methods:

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0016 or draft regulatory guide DG–1330. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced. The DG is available in ADAMS under Accession No. ML16301A307. The regulatory analysis for this DG is available in ADAMS under Accession No ML16330A179.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Jan Mazza, Office of New Reactors, telephone: 301–415–0498, email: *Jan.Mazza@nrc.gov;* or Mark Orr, Office of Nuclear Regulatory Research, telephone: 301–415–6003, email: *Mark.Orr@nrc.gov.* Both are staff members of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** on February 3, 2017 (82 FR 9246), the NRC issued DG–1330, ''Guidance for Developing Principal Design Criteria for Non-Light Water Reactors,'' for a 60-day public comment period. The ADAMS accession numbers for the DG and the regulatory analysis for the DG were inadvertently omitted from the notice. In addition, a paragraph in the NRC Rationale section for GDC 26 in Appendices A, B, and C for the DG was also omitted. The DG has been corrected and is available at ADAMS accession number ML16301A307. The regulatory analysis for DG–1330 is available at ADAMS accession number 16330A179. The comment period has been extended until April 20, 2017, to give stakeholders time to review the change and provide comments.

Dated at Rockville, Maryland, this 31st day of March 2017.

For the Nuclear Regulatory Commission.

Thomas Boyce,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2017–06726 Filed 4–4–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0055; NRC–2017–0054]

Request for a License To Export Radioactive Waste; UniTech Service Group, Inc.

AGENCY: Nuclear Regulatory Commission.

ACTION: Return of import license application and reopening of comment period for export license.

SUMMARY: The NRC is reopening the opportunity for public comment and reopening the opportunity to request a hearing or a petition to intervene for an application to export radioactive waste filed by UniTech Service Group, Inc. (UniTech).

DATES: The comment period for the ''Request for a License to Export Radioactive Waste'' (82 FR 10919; February 16, 2017 (as corrected in March 06, 2017; 82 FR 12641)), has been reopened. Comments should be filed no later than May 5, 2017. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for NRC–2017–0054. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Email comments to: Hearingdocket@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact the Office of the Secretary at 301–415–1677.

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

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

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

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Andrea Jones, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–287–9072, email: *Andrea.Jones2@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0054, when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for NRC–2017–0054.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2017–0054, in your comment submission.

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

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

II. Discussion

On October 27, 2016, the NRC received an application for a specific import license (IW034) from UniTech to import 10,000 metric tons of byproduct material in the form of radioactive-contaminated tools, metals, and other solid materials, along with incremental amounts of special nuclear material (less than fifteen grams per shipment). On October 27, 2016, the NRC also received an associated application for a specific export license (XW023) from UniTech to export 10,000 metric tons of byproduct material, along with incremental amounts of special nuclear material (less than fifteen grams per shipment). As further explained in the March 30, 2017, letter from David Skeen (ADAMS Accession No. ML17086A272), Deputy Director, Office of International Programs, NRC, to Glenn Roberts, Corporate Health Physicist, UniTech, the NRC has returned UniTech's application for a specific import license without action because the requested import activities are authorized under an NRC general import license.

Therefore, the only regulatory action pending before the NRC is UniTech's application for a specific export license (XW023) to export low-level radioactive waste to Canada. The NRC is reopening both the public comment period and the opportunity to file a request for a hearing or petition for leave to intervene on XW023 for an additional 30 days after publication of this notice in the **Federal Register** (FR). Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

A request for a hearing or petition for leave to intervene may be filed with the NRC electronically in accordance with NRC's E-Filing rule promulgated in August 2007 (72 FR 49139; August 28, 2007). Information about filing electronically is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* To ensure timely electronic filing, at least 5 days prior to the filing deadline, the petitioner/requestor should contact the Office of the Secretary by email at *hearingdocket@nrc.gov,* or by calling 301–415–1677, to request a digital ID certificate and allow for the creation of an electronic docket.

In addition to a request for hearing or petition for leave to intervene, written comments, in accordance with 10 CFR 110.81, should be submitted within thirty days after publication of this notice in the **Federal Register** to Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Rulemaking and Adjudications.

Dated at Rockville, Maryland, this 30th day of March 2017.

For the Nuclear Regulatory Commission.

David L. Skeen,

Deputy Director, Office of International Programs.

[FR Doc. 2017–06725 Filed 4–4–17; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission; Office of FOIA Services; 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 17a–5; SEC File No. 270–155, OMB Control No. 3235–0123.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 17a–5 (17 CFR 240.17a–5), under the Securities

Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 17a–5 is the basic financial reporting rule for brokers and dealers.[1] The rule requires the filing of Form X–17A–5, the Financial and Operational Combined Uniform Single Report (''FOCUS Report''), which was the result of years of study and comments by representatives of the securities industry through advisory committees and through the normal rule proposal methods. The FOCUS Report was designed to eliminate the overlapping regulatory reports required by various self-regulatory organizations and the Commission and to reduce reporting burdens as much as possible. The rule also requires the filing of an annual audited report of financial statements.

The FOCUS Report consists of: (1) Part I, which is a monthly report that must be filed by brokers or dealers that clear transactions or carry customer securities; (2) one of three alternative quarterly reports: Part II, which must be filed by brokers or dealers that clear transactions or carry customer securities; Part IIA, which must be filed by brokers or dealers that do not clear transactions or carry customer securities; and Part IIB, which must be filed by specialized broker-dealers registered with the Commission as OTC derivatives dealers;[2] (3) supplemental schedules, which must be filed annually; and (4) a facing page, which must be filed with the annual audited report of financial statements. Under the rule, a broker or dealer that computes certain of its capital charges in accordance with Appendix E to Exchange Act Rule 15c3–1 must file additional monthly, quarterly, and annual reports with the Commission.

The Commission estimates that the total hours burden under Rule 17a–5 is approximately 356,020 hours per year when annualized, and the total cost burden under Rule 17a–5 is approximately $45,133,148 per year.

Written comments are invited on: (a) 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; (b) the accuracy of the Commission's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or send an email to *PRA_Mailbox@sec.gov.*

Dated: March 30, 2017.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–06695 Filed 4–4–17; 8:45 am]

BILLING CODE 8011–01–P

[1] Rule 17a–5(c) requires a broker or dealer to furnish certain of its financial information to customers and is subject to a separate PRA filing (OMB Control Number 3235–0199).

[2] Part IIB of Form X–17A–5 must be filed by OTC derivatives dealers under Exchange Act Rule 17a–12 and is subject to a separate PRA filing (OMB control number 3235–0498).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80349; File No. SR–FICC–2017–001]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving a Proposed Rule Change To (1) Implement the Margin Proxy, (2) Modify the Calculation of the Coverage Charge in Circumstances Where the Margin Proxy Applies, and (3) Make Certain Technical Corrections

March 30, 2017.

I. Introduction

Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') on February 2, 2017 the proposed rule change SR–FICC–2017–001 (''Proposed Rule Change'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder.[2] The Proposed Rule Change was published for comment in the **Federal Register** on February 9, 2017.[3] The Commission received three comment letters[4] to the Proposed Rule Change, including a response letter from FICC.

II. Description of the Proposed Rule Change

The Proposed Rule Change proposes several amendments to the FICC Government Securities Division (''GSD'') Rulebook (''GSD Rules'')[5] designed to provide FICC with a supplemental means to calculate the VaR Charge component of its GSD Netting Members' (''Netting Members'') daily margin requirement, known as the ''Required Fund Deposit.'' Specifically, under the proposal, FICC would include a minimum volatility calculation for a Netting Member's VaR Charge called the ''Margin Proxy.'' FICC represents that the Margin Proxy would enhance the risk-based model and parameters that FICC uses to establish Netting Members' Required Fund Deposits by enabling FICC to better identify the risk posed by a Netting Member's unsettled portfolio.

A. Overview of the Required Fund Deposit

According to FICC, a key tool it uses to manage market risk is the daily calculation and collection of Required Fund Deposits from its Netting Members. The Required Fund Deposit is intended to mitigate potential losses to FICC associated with liquidation of such Netting Member's accounts at GSD that are used for margining purposes (''Margin Portfolio'') in the event that FICC ceases to act for such Netting Member (referred to as a Netting Member ''Default'').

A Netting Member's Required Fund Deposit consists of several components, including the VaR Charge and the Coverage Charge. The VaR Charge comprises the largest portion of a Netting Member's Required Fund

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4. FICC also filed this proposal as an advance notice pursuant to Section 802(e)(1) of the Payment, Clearing, and Settlement Supervision Act of 2010 and Rule 19b–4(n)(1) under the Act. 15 U.S.C. 5465(e)(1) and 17 CFR 240.19b–4(n)(1). The advance notice was published for comment in the **Federal Register** on March 2, 2017. *See* Securities Exchange Act Release No. 80139 (March 2, 2017), 82 FR 80139 (March 8, 2017) (SR–FICC–2017–801) (''Advance Notice''). The Commission did not receive any comments on the Advance Notice.

[3] Securities Exchange Act Release No. 79958 (February 3, 2017), 82 FR 10117 (February 9, 2017) (SR–FICC–2017–001)(''Notice'').

[4] *See* letter from Robert E. Pooler, Chief Financial Officer, Ronin Capital LLC (''Ronin''), dated February 24, 2017, to Eduardo A. Aleman, Assistant Secretary, Commission (''Ronin Letter''); letter from Alan Levy, Managing Director, Industrial and Commercial Bank of China Financial Services LLC (''ICBCFS''), dated February 24, 2017, to Commission (''ICBCFS Letter''); and Timothy J. Cuddihy, Managing Director, FICC, dated March 8, 2017, to Eduardo A. Aleman, Assistant Secretary, Commission (''FICC Letter'') *available at https://www.sec.gov/comments/sr-ficc-2017–001/ficc2017001.htm.*

[5] *Available at http://www.dtcc.com/en/legal/rules-and-procedures.*

Deposit amount and is calculated using a risk-based margin methodology model that is intended to cover the market price risk associated with the securities in a Netting Member's Margin Portfolio. That risk-based margin methodology model, which FICC refers to as the ''Current Volatility Calculation,'' uses historical market moves to project the potential gains or losses that could occur in connection with the liquidation of a defaulting Netting Member's Margin Portfolio.

The Coverage Charge is calculated based on the Netting Member's daily backtesting results conducted by FICC. Backtesting is used to determine the adequacy of each Netting Member's Required Fund Deposit and involves comparing the Required Fund Deposit for each Netting Member with actual price changes in the Netting Member's Margin Portfolio. The Coverage Charge is incorporated in the Required Fund Deposit for each Netting Member, and is equal to the amount necessary to increase that Netting Member's Required Fund Deposit so that the Netting Member's backtesting coverage may achieve the 99 percent confidence level required by FICC (*i.e.,* two or fewer backtesting deficiency days in a rolling twelve-month period).

B. Proposed Change to the Existing VaR Charge Calculation

Under the proposal, FICC would create the Margin Proxy, a new, benchmarked volatility calculation of the VaR Charge. The Margin Proxy would act as an alternative to the Current Volatility Calculation of the VaR Charge to provide a minimum volatility calculation for each Netting Member's VaR Charge. FICC proposes to use the Margin Proxy as the VaR Charge if doing so would result in a higher Required Fund Deposit for a Netting Member than using the Current Volatility Calculation as the VaR Charge. In addition, as described in more detail below, because FICC's testing shows that the Margin Proxy would, by itself, achieve a 99 percent confidence level for Netting Members' backtesting coverage when used in lieu of the Current Volatility Charge, in the event that FICC uses the Margin Proxy as the VaR Charge for a Netting Member, it would reduce the Coverage Charge for that Netting Member by a commensurate amount, as long as the Coverage Charge does not go below zero.

According to FICC, during the fourth quarter of 2016, its Current Volatility Calculation did not respond effectively to the level of market volatility at that time, and its VaR Charge amounts (calculated using the profit and loss scenarios generated by the Current Volatility Calculation) did not achieve backtesting coverage at a 99 percent confidence level,[6] which resulted in backtesting deficiencies for the Required Fund Deposit beyond FICC's risk tolerance.[7] FICC's calculation of the Margin Proxy is designed to avoid such deficiencies. The Margin Proxy provides FICC with an alternative calculation of the VaR Charge to the Current Volatility Calculation of the VaR Charge. In particular, the Margin Proxy is likely to be used when the Current Volatility Calculation is lower than volatility from certain benchmarks (*i.e.,* market price volatility from corresponding U.S. Treasury and to-be-announced (''TBA'')[8] securities benchmarks.[9] The Margin Proxy separately calculates U.S. Treasury securities and agency pass-through mortgage backed securities (''MBS''). According to FICC, the historical price changes of these two asset classes are different due to market factors such as credit spreads and prepayment risk.[10] This would allow FICC to monitor the performance of each of those asset classes individually.[11] By using separate calculations for the two asset classes, the Margin Proxy would cover the historical market prices of each of those asset classes, on a standalone basis, to a 99 percent confidence level.

The Margin Proxy would be calculated per Netting Member, and each security in a Netting Member's Margin Portfolio would be mapped to a respective benchmark based on the security's asset class and maturity.[12] All securities within each benchmark would be aggregated into a net exposure.[13] Once the net exposure is determined, FICC would apply an applicable haircut[14] to each benchmark's net exposure to determine the net price risk for each benchmark (''Net Price Risk''). Finally, FICC would separately determine the asset class price risk (''Asset Class Price Risk'') for U.S. Treasury and MBS benchmarks by aggregating the respective Net Price Risk for each benchmark. To provide risk diversification across tenor buckets for the U.S. Treasury benchmarks, the Asset Class Price Risk calculation includes a correlation adjustment that has been historically observed across the U.S. Treasury benchmarks. According to FICC, the Margin Proxy would thereby represent the sum of the U.S. Treasury and MBS Asset Class Price Risk.[15] FICC would compare the Margin Proxy to the Current Volatility Calculation for each asset class and then apply whichever is greater as the VaR Charge for each Netting Member's Margin Portfolio.

FICC expresses confidence that this proposal would provide the adequate VaR Charge for each Netting Member because its calculations show that including the Margin Proxy results in backtesting coverage above the 99 percent confidence level for the past four years.[16] Additionally, FICC asserts that, by using industry-standard benchmarks that can be observed by Netting Members, the Margin Proxy would be transparent to Netting Members.[17]

FICC further asserts that the Margin Proxy methodology would be subject to performance reviews by FICC. Specifically, FICC would monitor each Netting Member's Required Fund Deposit and the aggregate FICC GSD clearing fund (''Clearing Fund'') requirements and compare them to the requirements calculated by the Margin Proxy. Consistent with the current GSD Rules,[18] FICC would review the robustness of the Margin Proxy by comparing the results versus the three-day profit and loss of each Netting Member's Margin Portfolio based on actual market price moves. If the Margin Proxy's backtesting results do not meet FICC's 99 percent confidence level, FICC states that it would consider adjustments to the Margin Proxy, including increasing the look-back period and/or applying a historical stressed period to the Margin Proxy calibration, as appropriate.[19]

C. Proposed Modification to the Coverage Charge When the Margin Proxy Is Applied

FICC also proposes to modify the calculation of the Coverage Charge when the Margin Proxy is applied as the VaR Charge. Specifically, FICC would

[6] Notice, 82 FR at 10118.

[7] *Id.*

[8] FICC states that specified pool trades are mapped to the corresponding positions in TBA securities for determining the VaR Charge.

[9] Notice, 82 FR at 10118.

[10] *Id.*

[11] *Id.*

[12] According to FICC, U.S. Treasury and agency securities would be mapped to a U.S. Treasury benchmark security/index, while MBS would be mapped to a TBA security/index.

[13] Net exposure is the aggregate market value of securities to be purchased by the Netting Member minus the aggregate market value of securities to be sold by the Netting Member.

[14] The haircut is calculated using historical market price changes of the respective benchmark to cover the expected market price volatility at 99 percent confidence level.

[15] Notice, 82 FR at 10119.

[16] *Id.*

[17] *Id.*

[18] *See* definition of VaR Charge in GSD Rule 1, Definitions, *supra* note 5.

[19] Notice, 82 FR at 10119.

reduce the Coverage Charge by the amount that the Margin Proxy exceeds the sum of the Current Volatility Calculation and Coverage Charge, but not by an amount greater than the total Coverage Charge. FICC states that its backtesting analysis demonstrates that the Margin Proxy, on its own, achieves the 99 percent confidence level without the inclusion of the Coverage Charge.[20] FICC would not modify the Coverage Charge if the Margin Proxy is not applied as the VaR Charge.

D. Technical Corrections

FICC also proposes technical corrections to the GSD Rules. Specifically, FICC proposes to: (1) Capitalize certain words in the definition of VaR Charge in Rule 1 in order to reflect existing defined terms; (2) add ''Netting'' before ''Member'' in the definition of VaR Charge to reflect the application of the VaR Charge on Netting Members; and (3) correct typographical errors in Section 1b(a) of Rule 4.

III. Summary of Comments Received

The Commission received three comment letters in response to the proposal. Two comment letters—the Ronin Letter and the ICBCFS Letter—raise concerns with respect to the proposal's design and transparency,[21] while the Ronin Letter also criticizes the proposal for a potential anti-competitive impact.[22] Additionally, both the Ronin Letter and ICBCFS Letter raise a concern that falls outside the scope of the Commission's review of the Proposed Rule Change.[23] The third comment letter is FICC's response to those concerns. The Commission has reviewed and taken into consideration each of the comments received and addresses the comments below insofar as they relate to the standard of review for a proposed rule change.

A. Comments Regarding the Proposal's Design

Ronin questions the justification for imposing the Margin Proxy, particularly: (i) The need for the VaR Charge to address idiosyncratic risk (referencing the 2016 U.S. presidential election), and (ii) if the volatility around the 2016 U.S. presidential election was sufficiently extreme to warrant the creation of the Margin Proxy.[24] In response, FICC reiterates that the Margin Proxy's primary goal is to achieve a 99 percent backtesting confidence level for all members.[25] FICC observes that, while recent dates from the fourth quarter of 2016 (including the 2016 U.S. Presidential election) indicate that the VaR Charge, on its own, is not always sufficient to ensure that the 99 percent coverage threshold is met,[26] inclusion of the Margin Proxy results in a backtesting confidence level above 99 percent for the past four years, demonstrating that the Margin Proxy accomplishes its primary goal.[27]

ICBCFS disagrees with certain technical aspects of the proposal. In particular, it: (i) Questions the inclusion of ten years of pricing data in the proposed Margin Proxy calculation, including the 2007–2009 period; (ii) disagrees with the Margin Proxy's netting of both sides of a repurchase transaction; and (iii) raises concerns on how the proposed Margin Proxy groups securities in a Netting Member's Margin Portfolio in a way that could increase its margin.[28]

In response to the questions regarding the inclusion of ten years of pricing data, FICC states that using the proposed look-back period would help to ensure that the Margin Proxy, and as a result, the VaR Charge, does not either (i) decrease as quickly during intervals of low volatility, or (ii) increase as sharply in crisis periods, resulting in more stable VaR estimates that adequately reflect extreme market moves.[29] With respect to ICBCFS's concerns with offsetting positions in transaction, FICC notes that the Margin Proxy uses a similar approach for offsetting positions as in the Current Volatility Calculation.[30] In response to ICBCFS' concerns about increased margin due to the Margin Proxy's benchmarking, FICC responds that the circumstance that ICBCFS cited would not result in a higher margin, as the Margin Proxy would benchmark securities within the same asset class and maturity (and long and short positions within such benchmarks would be offset).[31]

B. Comments Regarding the Proposal's Transparency

Ronin and ICBCFS argue that the proposal is not sufficiently transparent because it does not include sufficient information for them to determine the proposal's impact on their margin calculations.[32] In response, FICC states that it (i) provided all GSD Netting Members with a two-month impact study reflecting the impact of the Margin Proxy on the VaR Charge and Coverage Charge (before and after the U.S. presidential election), and (ii) responded to individual Netting Member requests for additional data and information.[33] FICC also notes that it will continue to engage in ongoing dialogue with Netting Members in order to help Netting Members gauge the individual impact of the proposed margin methodology changes.[34]

C. Comments Regarding the Proposal's Burden on Competition

Finally, Ronin argues that the proposal imposes a burden on competition because it may cause Ronin to pay more margin. Ronin notes that the Margin Proxy creates an ''unfair competitive burden'' among Netting Members with different access to capital.[35] In response, FICC posits that, given the Netting Members' different costs of capital, the Margin Proxy's potential increase of additional margin could be anti-competitive.[36] However, FICC does not believe that the Margin Proxy would impose a significant burden on competition. Specifically, FICC notes that any increase in a Netting Member's Required Fund Deposit would (i) be in direct relation to that Netting Member's portfolio market risk, and (ii) be calculated with the same parameters and confidence level for all Netting Members.[37] Further, FICC states that any increase in a Netting Member's Required Fund Deposit because of the Margin Proxy would be ''necessary to assure the safeguarding of the securities and funds that are in FICC's possession

[20] *Id.* at 10119. Future adjustments to the Margin Proxy could require the filing of a new proposed rule change.

[21] *See* Ronin Letter at 1–10; ICBCFS Letter at 1–3.

[22] *See* Ronin Letter at 2, 9.

[23] *See* Ronin Letter at 3; ICBCFS Letter at 1–2. Specifically, Ronin and ICBCFS disapprove of FICC's request for an accelerated regulatory review process. FICC responds that it sought accelerated review to rectify deficiencies with its margin calculations as quickly as possible to avoid exposing its Netting Members to the risk that a defaulting Netting Member will not be sufficiently covered by margin. The Commission notes that neither Ronin nor ICBCFS suggest how this concern relates to the Proposed Rule Change's consistency with the Act—the standard by which the Commission must evaluate a proposed rule change. *See* 15 U.S.C. 78s(b)(2)(C). The Commission also notes, as a matter of fact, that neither the Proposed Rule Change nor the related Advance Notice were approved on an accelerated basis.

[24] Ronin Letter at 1, 6.

[25] *See* FICC Letter at 4.

[26] *See id.* at 2.

[27] *Id.* at 4.

[28] ICBCFS Letter at 2.

[29] FICC Letter at 4.

[30] *Id.*

[31] *Id.*

[32] *See* Ronin Letter at 3; ICBCFS Letter at 1–3.

[33] FICC Letter at 2–3.

[34] *Id.* at 3–4.

[35] Ronin Letter at 2.

[36] *Id.* at 9.

[37] FICC Letter at 5.

and cover FICC's risk exposure to its [Netting] Members.'' [38]

IV. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act [39] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.

The Commission finds that the Proposed Rule Change described above is consistent with the Act, in particular Sections 17A(b)(3)(F) and (b)(3)(I) of the Act,[40] and Rules 17Ad–22(b)(1),[41] (b)(2),[42] and (d)(1) [43] under the Act.

Section 17A(b)(3)(F) of the Act requires that the rules of the clearing agency must be designed to, among other things, assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[44] As described above, the proposal would enhance the risk-based model and parameters that establish daily margin requirements for Netting Members by enabling FICC to better identify the risk posed by a Netting Member's unsettled portfolio and to increase FICC's collection of margin when the Margin Proxy calculation exceeds the Current Volatility Calculation. As such, the proposal would help ensure that the Required Fund Deposit that FICC collects from Netting Members is sufficient to mitigate FICC's credit exposure to potential losses arising from the default of a Netting Member. Therefore, the Commission believes that the proposed rule changes associated with the Margin Proxy and Coverage Charge would help safeguard securities and funds that are in the custody or control of FICC, consistent with Section 17A(b)(3)(F) of the Act.

Section 17A(b)(3)(F) of the Act also requires that the rules of a registered clearing agency promote the prompt and accurate clearance and settlement of securities transactions.[45] As described above, the proposal includes technical corrections to address typographical errors and capitalize terms so that existing defined terms are accurately referenced and used in the applicable rule provisions. As such, the proposal would help ensure that the GSD Rules remain accurate and clear, which would help to avoid potential interpretation differences and possible disputes between FICC and its Netting Members. Thus, Commission believes that the proposed rule changes associated with the technical corrections would promote the prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act.

Section 17A(b)(3)(I) of the Act requires that the rules of a registered clearing agency do not impose any burden on competition not necessary or appropriate in furtherance of the Act.[46] As stated above, the Proposed Rule Change could increase the amount of margin that FICC collects in certain circumstances, which would help ensure that the Required Fund Deposit that FICC collects from Netting Members is sufficient to mitigate the credit risk presented by the Netting Members. While Ronin argues that such an increase in its margin may be anticompetitive (because Netting Members have different costs of capital),[47] the Commission believes that the potential increase in a Netting Member's Required Fund Deposit as a result of this proposal would be necessary and appropriate in furtherance of the Act because it would be (i) commensurate with that Netting Member's risk profile, (ii) calculated using the same parameters for all Netting Members, and (iii) designed to ensure that FICC has sufficient margin to limit its exposure to potential losses resulting from the default of a Netting Member. Thus, Commission believes that the proposed rule change would not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, consistent with Section 17A(b)(3)(I) of the Act.

Rule 17Ad–22(b)(1) under the Act requires a registered clearing agency that performs central counterparty services to establish, implement, maintain, and enforce written policies and procedures reasonably designed to measure its credit exposures to its participants at least once a day and limit its exposures to potential losses from defaults by its participants under normal market conditions so that the operations of the clearing agency would not be disrupted and non-defaulting participants would not be exposed to losses that they cannot anticipate or control.[48] The proposed Margin Proxy would be used daily to help measure FICC's credit exposure to Netting Members. While ICBCFS raises concerns about including the 2007–2009 period, as noted above, the Commission agrees that this look back period should help FICC better monitor the credit exposures presented by its Netting Members by including volatile periods. It should also enhance FICC's overall risk-based margining framework by helping to ensure that the calculation of each GSD Netting Member's Required Fund Deposit would be sufficient to allow FICC to use the defaulting member's own Required Fund Deposit to limit its exposures to potential losses associated with the liquidation of such member's portfolio in the event of a GSD Netting Member default under normal market conditions. Therefore, the Commission believes that the proposal is consistent with the requirements of Rule 17Ad–22(b)(1).[49]

Rule 17Ad–22(b)(2) under the Act requires a registered clearing agency that performs central counterparty services to establish, implement, maintain, and enforce written policies and procedures reasonably designed to use margin requirements to limit its credit exposures to participants under normal market conditions and use risk-based models and parameters to set margin requirements and review such margin requirements and the related risk-based models and parameters at least monthly.[50] The proposed changes would enhance the risk-based model and parameters that establish daily margin requirements for Netting Members by enabling FICC to better identify the risk posed by a Netting Member's unsettled portfolio and to quickly adjust and collect additional deposits as needed to cover those risks. Because the proposed changes are designed to calculate each Netting Member's Required Fund Deposit at a 99 percent confidence level, the proposal also should help mitigate losses to FICC and its members, in the event that such Netting Member defaults under normal market conditions. Therefore, the Commission believes that the proposal is consistent with the requirements of Rule 17Ad–22(b)(2).[51]

Rule 17Ad–22(d)(1) under the Act requires a registered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to, among other things, provide for a well-founded, transparent, and enforceable legal framework for each aspect of its

[38] *Id.* at 5.
[39] 15 U.S.C. 78s(b)(2)(C).
[40] 15 U.S.C. 78q–1(b)(3)(F).
[41] 17 CFR 240.17Ad–22(b)(1).
[42] 17 CFR 240.17Ad–22(b)(2).
[43] 17 CFR 240.17Ad–22(d)(1).
[44] 15 U.S.C. 78q–1(b)(3)(F).
[45] 15 U.S.C. 78q–1(b)(3)(F).
[46] 15 U.S.C. 78q–1(b)(3)(I).
[47] Ronin Letter at 9.
[48] 17 CFR 240.17Ad–22(b)(1).
[49] *Id.*
[50] 17 CFR 240.17Ad–22(b)(2).
[51] *Id.*

activities in all relevant jurisdictions.[52] While Ronin and ICBCFS argue that the proposal is not sufficiently transparent because it does not include sufficient information for them to determine the proposal's impact on their margin calculations,[53] the Commission understands that FICC has provided Netting Members with information to allow them to understand the impact of the Margin Proxy on their VaR Charge and Coverage Charge, and that FICC responded to individual Netting Member requests for additional data and information.[54] Moreover, the Commission understands that FICC will continue to engage in ongoing dialogue with Netting Members in order to help Netting Members gauge the individual impact of the proposed margin methodology changes.[55] Therefore, the Commission believes that the proposal is reasonably designed to provide for a well-founded, transparent, and enforceable legal framework, consistent with Rule 17Ad–22(d)(1).[56]

V. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[57] that proposed rule change SR–FICC–2017–001 be, and it hereby is, *approved* as of the date of this order or the date of a notice by the Commission authorizing FICC to implement FICC's advance notice proposal SR–FICC–2017–801 that is consistent with this proposed rule change, whichever is later.[58]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[59]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–06685 Filed 4–4–17; 8:45 am]

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[52] 17 CFR 240.17Ad–22(d)(1).

[53] *See* Ronin Letter at 3; ICBCFS Letter at 1–3.

[54] *See* FICC Letter at 2–3.

[55] *See id.* at 3–4.

[56] 17 CFR 240.17Ad–22(d)(1).

[57] 15 U.S.C. 78s(b)(2).

[58] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[59] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32584; File No. 812–14636]

Angel Oak Funds Trust and Angel Oak Capital Advisors, LLC

March 30, 2017.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application for an order pursuant to: (a) Section 6(c) of the Investment Company Act of 1940 (''Act'') granting an exemption from sections 18(f) and 21(b) of the Act; (b) section 12(d)(1)(J) of the Act granting an exemption from section 12(d)(1) of the Act; (c) sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1), 17(a)(2) and 17(a)(3) of the Act; and (d) section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint arrangements and transactions. Applicants request an order that would permit certain registered open-end management investment companies to participate in a joint lending and borrowing facility.

APPLICANTS: Angel Oak Funds Trust, a Delaware statutory trust registered under the Act as an open-end management series investment company, and Angel Oak Capital Advisors, LLC (the ''Adviser''), a Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940.

FILING DATES: The application was filed on April 1, 2016, and amended on September 30, 2016 and February 6, 2017.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 24, 2017 and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: Dory S. Black, Esq., President, c/o Angel Oak Capital Advisors, LLC, One Buckhead Plaza, 3060 Peachtree Rd. NW., Suite 500, Atlanta, Georgia 30305.

FOR FURTHER INFORMATION CONTACT: Steven I. Amchan, Senior Counsel, at (202) 551–6826 or David J. Marcinkus, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

SUMMARY OF THE APPLICATION:

1. Applicants request an order that would permit the applicants to participate in an interfund lending facility where each Fund could lend money directly to and borrow money directly from other Funds to cover unanticipated cash shortfalls, such as unanticipated redemptions or trade fails.[1] The Funds will not borrow under the facility for leverage purposes and the loans' duration will be no more than 7 days.[2]

2. Applicants anticipate that the proposed facility would provide a borrowing Fund with a source of liquidity at a rate lower than the bank borrowing rate at times when the cash position of the Fund is insufficient to meet temporary cash requirements. In addition, Funds making short-term cash loans directly to other Funds would earn interest at a rate higher than they otherwise could obtain from investing their cash in repurchase agreements or certain other short term money market instruments. Thus, applicants assert that the facility would benefit both borrowing and lending Funds.

3. Applicants agree that any order granting the requested relief will be

[1] Applicants request that the order apply to the applicants and to any existing or future registered open-end management investment company or series thereof for which the Adviser or any successor thereto or an investment adviser controlling, controlled by, or under common control with the Adviser or any successor thereto serves as investment adviser (each a ''Fund'' and collectively the ''Funds'' and each such investment adviser an ''Adviser''). For purposes of the requested order, ''successor'' is limited to any entity that results from a reorganization into another jurisdiction or a change in the type of a business organization.

[2] Any Fund, however, will be able to call a loan on one business day's notice.

subject to the terms and conditions stated in the Application. Among others, the Adviser, through a designated committee, would administer the facility as a disinterested fiduciary as part of its duties under the investment management agreement with each Fund and would receive no additional fee as compensation for its services in connection with the administration of the facility. The facility would be subject to oversight and certain approvals by the Funds' Board, including, among others, approval of the interest rate formula and of the method for allocating loans across Funds, as well as review of the process in place to evaluate the liquidity implications for the Funds. A Fund's aggregate outstanding interfund loans will not exceed 15% of its net assets, and the Fund's loans to any one Fund will not exceed 5% of the lending Fund's net assets.[3]

4. Applicants assert that the facility does not raise the concerns underlying section 12(d)(1) of the Act given that the Funds are part of the same group of investment companies and there will be no duplicative costs or fees to the Funds.[4] Applicants also assert that the proposed transactions do not raise the concerns underlying sections 17(a)(1), 17(a)(3), 17(d) and 21(b) of the Act as the Funds would not engage in lending transactions that unfairly benefit insiders or are detrimental to the Funds. Applicants state that the facility will offer both reduced borrowing costs and enhanced returns on loaned funds to all participating Funds and each Fund would have an equal opportunity to borrow and lend on equal terms based on an interest rate formula that is objective and verifiable. With respect to the relief from section 17(a)(2) of the Act, applicants note that any collateral pledged to secure an interfund loan would be subject to the same conditions imposed by any other lender to a Fund that imposes conditions on the quality of or access to collateral for a borrowing (if the lender is another Fund) or the same or better conditions (in any other circumstance).[5]

5. Applicants also believe that the limited relief from section 18(f)(1) of the Act that is necessary to implement the facility (because the lending Funds are not banks) is appropriate in light of the conditions and safeguards described in the application and because the Funds would remain subject to the requirement of section 18(f)(1) that all borrowings of a Fund, including combined interfund loans and bank borrowings, have at least 300% asset coverage.

6. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Rule 17d–1(b) under the Act provides that in passing upon an application filed under the rule, the Commission will consider whether the participation of the registered investment company in a joint enterprise, joint arrangement or profit sharing plan on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of the other participants.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–06692 Filed 4–4–17; 8:45 am]

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[3] Under certain circumstances, a borrowing Fund will be required to pledge collateral to secure the loan.

[4] Applicants state that the obligation to repay an interfund loan could be deemed to constitute a security for the purposes of sections 17(a)(1) and 12(d)(1) of the Act.

[5] Applicants state that any pledge of securities to secure an interfund loan could constitute a purchase of securities for purposes of section 17(a)(2) of the Act.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80346; File No. SR–NYSEArca–2017–09]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change, as Modified by Amendment No. 1, Regarding Investments of the Janus Short Duration Income ETF Listed Under NYSE Arca Equities Rule 8.600

March 30, 2017.

On January 30, 2017, NYSE Arca, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change regarding investments of the Janus Short Duration Income ETF listed under NYSE Arca Equities Rule 8.600. The proposed rule change was published for comment in the **Federal Register** on February 17, 2017.[3] On March 13, 2017, the Exchange filed Amendment No. 1 to the proposed rule change.[4] The Commission received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act [5] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is April 3, 2017. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change, as modified by Amendment No. 1. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 80028 (February 13, 2017), 82 FR 11089.

[4] Amendment No. 1 is available at: *https://www.sec.gov/comments/sr-nysearca-2017-09/nysearca201709-1641603-145721.pdf.*

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

designates May 18, 2017, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change, as modified by Amendment No. 1 (File No. SR–NYSEArca–2017–09).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–06683 Filed 4–4–17; 8:45 am]

BILLING CODE 8011–01–P

[7] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80341; File No. SR–FICC–2017–801]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of No Objection to Advance Notice Filing To (1) Implement the Margin Proxy and (2) Modify the Calculation of the Coverage Charge in Circumstances Where the Margin Proxy Applies

March 30, 2017.

Fixed Income Clearing Corporation (''FICC'') filed with the U.S. Securities and Exchange Commission (''Commission'') on February 2, 2017 the advance notice SR–FICC–2017–801 (''Advance Notice'') pursuant to Section 806(e)(1) of the Payment, Clearing, and Settlement Supervision Act of 2010 (''Clearing Supervision Act'')[1] and Rule 19b–4(n)(1)(i)[2] under the Securities Exchange Act of 1934 (''Exchange Act''). The Advance Notice was published for comment in the **Federal Register** on March 8, 2017.[3] Although the Commission received no comments to the Advance Notice, it received three comment letters[4] to the Proposed Rule Change, of which parts pertinent to the Advance Notice are discussed below.[5] This publication serves as notice of no objection to the Advance Notice.

I. Description of the Advance Notice

The Advance Notice proposes several amendments to the FICC Government Securities Division (''GSD'') Rulebook (''GSD Rules'') designed to provide FICC with a supplemental means to calculate the VaR Charge component of its GSD Netting Members' (''Netting Members'') daily margin requirement, known as the ''Required Fund Deposit.'' Specifically, under the proposal, FICC would include a minimum volatility calculation for a Netting Member's VaR Charge called the ''Margin Proxy.'' FICC represents that the Margin Proxy would enhance the risk-based model and parameters that FICC uses to establish Netting Members' Required Fund Deposits by enabling FICC to better identify the risk posed by a Netting Member's unsettled portfolio.

A. Overview of the Required Fund Deposit

According to FICC, a key tool it uses to manage market risk is the daily calculation and collection of Required Fund Deposits from its Netting Members. The Required Fund Deposit is intended to mitigate potential losses to FICC associated with liquidation of such Netting Member's accounts at GSD that are used for margining purposes (''Margin Portfolio'') in the event that FICC ceases to act for such Netting Member (referred to as a Netting Member ''Default'').

A Netting Member's Required Fund Deposit consists of several components, including the VaR Charge and the Coverage Charge. The VaR Charge comprises the largest portion of a Netting Member's Required Fund Deposit amount and is calculated using a risk-based margin methodology model that is intended to cover the market price risk associated with the securities in a Netting Member's Margin Portfolio. That risk-based margin methodology model, which FICC refers to as the ''Current Volatility Calculation,'' uses historical market moves to project the potential gains or losses that could occur in connection with the liquidation of a defaulting Netting Member's Margin Portfolio.

The Coverage Charge is calculated based on the Netting Member's daily backtesting results conducted by FICC. Backtesting is used to determine the adequacy of each Netting Member's Required Fund Deposit and involves comparing the Required Fund Deposit for each Netting Member with actual price changes in the Netting Member's Margin Portfolio. The Coverage Charge is incorporated in the Required Fund Deposit for each Netting Member, and is equal to the amount necessary to increase that Netting Member's Required Fund Deposit so that the Netting Member's backtesting coverage may achieve the 99 percent confidence level required by FICC (*i.e.,* two or fewer backtesting deficiency days in a rolling twelve-month period).

B. Proposed Change to the Existing VaR Charge Calculation

Under the proposal, FICC would create the Margin Proxy, a new, benchmarked volatility calculation of the VaR Charge. The Margin Proxy would act as alternative to the Current Volatility Calculation of the VaR Charge to provide a minimum volatility calculation for each Netting Member's VaR Charge. FICC proposes to use the Margin Proxy as the VaR Charge if doing so would result in a higher Required Fund Deposit for a Netting Member than using the Current Volatility Calculation as the VaR Charge. In addition, as described in more detail below, because FICC's testing shows that the Margin Proxy would, by itself, achieve a 99 percent confidence level for Netting Members' backtesting coverage when used in lieu of the Current Volatility Charge, in the event that FICC uses the Margin Proxy as the VaR Charge for a Netting Member, it would reduce the Coverage Charge for that Netting Member by a commensurate amount, as long as the Coverage Charge does not go below zero.

According to FICC, during the fourth quarter of 2016, its Current Volatility Calculation did not respond effectively to the level of market volatility at that time, and its VaR Charge amounts (calculated using the profit and loss scenarios generated by the Current Volatility Calculation) did not achieve backtesting coverage at a 99 percent

[1] 12 U.S.C. 5465(e)(1). The Financial Stability Oversight Council designated FICC a systemically important financial market utility on July 18, 2012. *See* Financial Stability Oversight Council 2012 Annual Report, Appendix A, *http://www.treasury.gov/initiatives/fsoc/Documents/2012%20Annual%20Report.pdf.* Therefore, FICC is required to comply with the Payment, Clearing and Settlement Supervision Act and file advance notices with the Commission. *See* 12 U.S.C. 5465(e).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] Securities Exchange Act Release No. 80139 (March 2, 2017), 82 FR 13026 (March 8, 2017) (SR–FICC–2017–801) (''Notice''). FICC also filed a related proposed rule change (SR–FICC–2017–001) (''Proposed Rule Change'') with the Commission pursuant to Section 19(b)(1) of the Exchange Act and Rule 19b–4 thereunder, seeking approval of changes to its rules necessary to implement the Advance Notice. 15 U.S.C. 78s(b)(1) and 17 CFR 240.19b–4, respectively. The Proposed Rule Change was published in the **Federal Register** on February 9, 2017. Securities Exchange Act Release No. 79958 (February 3, 2017), 82 FR 10117 (February 9, 2017) (SR–FICC–2017–001).

[4] *See* letter from Robert E. Pooler, Chief Financial Officer, Ronin Capital LLC (''Ronin''), dated February 24, 2017, to Eduardo A. Aleman, Assistant Secretary, Commission (''Ronin Letter''); letter from Alan Levy, Managing Director, Industrial and Commercial Bank of China Financial Services LLC (''ICBCFS''), dated February 24, 2017, to Commission (''ICBCFS Letter''); and Timothy J. Cuddihy, Managing Director, FICC, dated March 8, 2017, to Eduardo A. Aleman, Assistant Secretary, Commission (''FICC Letter'') *available at https://www.sec.gov/comments/sr-ficc-2017-001/ficc2017001.htm.*

[5] Because the proposal contained in the Advance Notice was also filed as the Proposed Rule Change, *see supra* note 3, the Commission is considering any comment received on the Proposed Rule Change also to be a comment on the Advance Notice.

confidence level,[6] which resulted in backtesting deficiencies for the Required Fund Deposit beyond FICC's risk tolerance.[7] FICC's calculation of the Margin Proxy is designed to avoid such deficiencies. The Margin Proxy provides FICC with an alternative calculation of the VaR Charge to the Current Volatility Calculation of the VaR Charge. In particular, the Margin Proxy is likely to be used when the Current Volatility Calculation is lower than volatility from certain benchmarks (i.e., market price volatility from corresponding U.S. Treasury and to-be-announced (''TBA'')[8] securities benchmarks.[9] The Margin Proxy separately calculates U.S. Treasury securities and agency pass-through mortgage backed securities (''MBS''). According to FICC, the historical price changes of these two asset classes are different due to market factors such as credit spreads and prepayment risk.[10] This would allow FICC to monitor the performance of each of those asset classes individually.[11] By using separate calculations for the two asset classes, the Margin Proxy would cover the historical market prices of each of those asset classes, on a standalone basis, to a 99 percent confidence level.

The Margin Proxy would be calculated per Netting Member, and each security in a Netting Member's Margin Portfolio would be mapped to a respective benchmark based on the security's asset class and maturity.[12] All securities within each benchmark would be aggregated into a net exposure.[13] Once the net exposure is determined, FICC would apply an applicable haircut[14] to each benchmark's net exposure to determine the net price risk for each benchmark (''Net Price Risk''). Finally, FICC would separately determine the asset class price risk (''Asset Class Price Risk'') for U.S. Treasury and MBS benchmarks by aggregating the respective Net Price Risk for each benchmark. To provide risk diversification across tenor buckets for the U.S. Treasury benchmarks, the Asset Class Price Risk calculation includes a correlation adjustment that has been historically observed across the U.S. Treasury benchmarks. According to FICC, the Margin Proxy would thereby represent the sum of the U.S. Treasury and MBS Asset Class Price Risk.[15] FICC would compare the Margin Proxy to the Current Volatility Calculation for each asset class and then apply whichever is greater as the VaR Charge for each Netting Member's Margin Portfolio.

FICC expresses confidence that this proposal would provide the adequate VaR Charge for each Netting Member because its calculations show that including the Margin Proxy results in backtesting coverage above the 99 percent confidence level for the past four years.[16] Additionally, FICC asserts that, by using industry-standard benchmarks that can be observed by Netting Members, the Margin Proxy would be transparent to Netting Members.[17]

FICC further asserts that the Margin Proxy methodology would be subject to performance reviews by FICC. Specifically, FICC would monitor each Netting Member's Required Fund Deposit and the aggregate FICC GSD clearing fund (''Clearing Fund'') requirements and compare them to the requirements calculated by the Margin Proxy. Consistent with the current GSD Rules,[18] FICC would review the robustness of the Margin Proxy by comparing the results versus the three-day profit and loss of each Netting Member's Margin Portfolio based on actual market price moves. If the Margin Proxy's backtesting results do not meet FICC's 99 percent confidence level, FICC states that it would consider adjustments to the Margin Proxy, including increasing the look-back period and/or applying a historical stressed period to the Margin Proxy calibration, as appropriate.[19]

C. Proposed Modification to the Coverage Charge When the Margin Proxy Is Applied

FICC also proposes to modify the calculation of the Coverage Charge when the Margin Proxy is applied as the VaR Charge. Specifically, FICC would reduce the Coverage Charge by the amount that the Margin Proxy exceeds the sum of the Current Volatility Calculation and Coverage Charge, but not by an amount greater than the total Coverage Charge. FICC states that its backtesting analysis demonstrates that the Margin Proxy, on its own, achieves the 99 percent confidence level without the inclusion of the Coverage Charge[20] FICC would not modify the Coverage Charge if the Margin Proxy is not applied as the VaR Charge.

II. Summary of Comments Received

The Commission received three comment letters in response to the proposal.[21] Two comment letters—the Ronin Letter and the ICBCFS Letter—raise concerns with respect to the proposal's design,[22] while the third comment letter is FICC's response to those concerns. The Commission has reviewed and taken into consideration each of the comments received and addresses the comments below insofar as they relate to the standard of review for an advance notice.

Specifically, Ronin questions the justification for imposing the Margin Proxy, particularly (i) the need for the VaR Charge to address idiosyncratic risk (referencing the 2016 U.S. presidential election), and (ii) if the volatility around the 2016 U.S. presidential election was sufficiently extreme to warrant the creation of the Margin Proxy.[23] In response, FICC reiterates that the Margin Proxy's primary goal is to achieve a 99 percent backtesting confidence level for all members.[24] FICC observes that, while recent dates from the fourth quarter of 2016 (including the 2016 U.S. Presidential

[6] Notice, 82 FR at 13029.

[7] *Id.*

[8] FICC states that specified pool trades are mapped to the corresponding positions in TBA securities for determining the VaR Charge.

[9] Notice, 82 FR at 13029.

[10] *Id.*

[11] *Id.*

[12] According to FICC, U.S. Treasury and agency securities would be mapped to a U.S. Treasury benchmark security/index, while MBS would be mapped to a TBA security/index.

[13] Net exposure is the aggregate market value of securities to be purchased by the Netting Member minus the aggregate market value of securities to be sold by the Netting Member.

[14] The haircut is calculated using historical market price changes of the respective benchmark to cover the expected market price volatility at 99 percent confidence level.

[15] Notice, 82 FR 13029.

[16] *Id.*

[17] *Id.*

[18] *See* definition of VaR Charge in GSD Rule 1, Definitions, *supra* note 4.

[19] Notice, 82 FR at 13029.

[20] *Id.* at 13029. Future adjustments to the Margin Proxy could require the filing of a new proposed rule change.

[21] As noted above, all three comment letters were submitted to the file for the related Proposed Rule Change, not the Advance Notice; however, because the Proposed Rule Change and Advance Notice are substantially the same proposal, this notice addresses the relevant comments. *See supra* note 4.

[22] See Ronin Letter at 1–10; ICBCFS Letter at 1–3. Ronin and ICBCFS also raised concerns with respect to transparency and implementation period. Specifically, Ronin and ICBCFS (i) argue that there is a lack of transparency with respect to the development of the Margin Proxy; and (ii) disapprove of FICC's request for an accelerated regulatory review process. In addition, Ronin argues that the proposal imposes a burden on competition because it may cause Ronin to pay more margin. These issues are relevant to the Commission's review and evaluation of the Proposed Rule Change, which is conducted under the Exchange Act, but not to the Commission's evaluation of the Advance Notice, which, as discussed below in Section III, is conducted under the Clearing Supervision Act and generally considers whether the proposal will mitigate systemic risk and promote financial stability. Accordingly, these concerns will be addressed in the Commission's review of the related Proposed Rule Change, as applicable under the Exchange Act.

[23] Ronin Letter at 1, 6.

[24] *See* FICC Letter at 4.

election) indicate that the VaR Charge, on its own, is not always sufficient to ensure that the 99 percent coverage threshold is met,[25] inclusion of the Margin Proxy results in a backtesting confidence level above 99 percent for the past four years, demonstrating that the Margin Proxy accomplishes its primary goal.[26]

ICBCFS disagrees with certain technical aspects of the proposal. In particular, it: (i) Questions the inclusion of ten years of pricing data in the proposed Margin Proxy calculation, including the 2007–2009 period; (ii) disagrees with the Margin Proxy's netting of both sides of a repurchase transaction; and (iii) raises concerns on how the proposed Margin Proxy groups securities in a Netting Member's Margin Portfolio in a way that could increase its margin.[27] In response to the questions regarding the inclusion of ten years of pricing data, FICC states that using the proposed look-back period would help to ensure that the Margin Proxy, and as a result, the VaR Charge, does not either (i) decrease as quickly during intervals of low volatility, or (ii) increase as sharply in crisis periods, resulting in more stable VaR estimates that adequately reflect extreme market moves.[28] With respect to ICBCFS's concerns with offsetting positions in transaction, FICC notes that the Margin Proxy uses a similar approach for offsetting positions as in the Current Volatility Calculation.[29] In response to ICBCFS' concerns about increased margin due to the Margin Proxy's benchmarking, FICC responds that the circumstance that ICBCFS cited would not result in a higher margin, as the Margin Proxy would benchmark securities within the same asset class and maturity (and long and short positions within such benchmarks would be offset).[30]

III. Discussion and Commission Findings

Although the Clearing Supervision Act does not specify a standard of review for an advance notice, its stated purpose is instructive: To mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically important financial market utilities and strengthening the liquidity of systemically important financial market utilities.[31] Section 805(a)(2) of the Clearing Supervision Act authorizes the Commission to prescribe risk management standards for the payment, clearing, and settlement activities of designated clearing entities and financial institutions engaged in designated activities for which it is the supervisory agency or the appropriate financial regulator. Section 805(b) of the Clearing Supervision Act[32] states that the objectives and principles for the risk management standards prescribed under Section 805(a) shall be to:

- Promote robust risk management;
- promote safety and soundness;
- reduce systemic risks; and
- support the stability of the broader financial system.[33]

The Commission has adopted risk management standards under Section 805(a)(2) of the Clearing Supervision Act[34] and Section 17A of the Exchange Act (''Clearing Agency Standards'').[35] The Clearing Agency Standards require registered clearing agencies to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for their operations and risk management practices on an ongoing basis.[36] Therefore, it is appropriate for the Commission to review changes proposed in advance notices against these Clearing Agency Standards and the objectives and principles of these risk management standards as described in Section 805(b) of the Clearing Supervision Act.[37]

A. Consistency With Section 805(b) of the Clearing Supervision Act

The Commission believes that the changes proposed in the Advance Notice are consistent with the objectives and principles described in Section 805(b) of the Clearing Supervision Act.[38]

First, the Commission believes that the proposed changes promote robust risk management by giving FICC the ability to better cover the exposure to potential default presented by GSD Netting Members' portfolios. In light of the VaR model deficiencies revealed through backtesting, FICC has taken appropriate steps to improve its ability to assess a sufficient VaR Charge for each Netting Member, and thereby help ensure that it has sufficient financial resources in its Clearing Fund. More specifically, the Margin Proxy would serve as a minimum volatility calculation, enabling FICC to adjust the GSD VaR Charge when the Margin Proxy calculation is greater than the current VaR model calculation. Such an adjustment would enable FICC to more effectively assess for the overall market risks associated with a possible default of a GSD Member.

Second, the Commission believes that each of the Margin Proxy mechanisms discussed above—the longer look back period, use of position offsets, and treatment of when-issued Treasury securities—are designed to help FICC to better manage market risk. The Commission agrees that a longer look-back period typically produces more stable VaR estimates.[39] By using the proposed look back period, including the 2007–2009 period, FICC will help ensure that the VaR Charge does not either decrease as quickly during intervals of low volatility or increase as sharply in crisis periods. This should allow FICC to manage market risk more effectively by having a more stable VaR Charge, as well as by incorporating periods of recent market volatility. The Commission also agrees that, by using position offsets within and across tenor buckets, the Margin Proxy will reflect historical observations across the U.S. Treasury benchmarks, and therefore help FICC monitor market risk. Finally, the Commission also believes that the Margin Proxy's proposed treatment of when-issued Treasury securities is appropriate. As FICC notes, the Margin Proxy ensures that when-issued Treasury securities correspond to the same maturity bucket as the new issue, therefore the VaR Charge will not be impacted by grouping of similar ''when-issued'' securities in different maturity buckets. In sum, the Commission believes that these mechanisms are designed to enable FICC to reduce its exposure to Netting Members, the Commission believes it is consistent with promoting robust risk management as contemplated in Section 805(a) of the Act.

Third, the Commission believes that the proposed changes promote safety and soundness at FICC, which, in turn, should reduce systemic risk and support the stability of the broader financial system. By providing for a supplemental means to calculate a Netting Member's VaR Charge, especially in light of known deficiencies with the current calculation, the proposal would help

[25] *See id.* at 2.

[26] *Id.* at 4.

[27] ICBCFS Letter at 2.

[28] FICC Letter at 4.

[29] *Id.*

[30] *Id.*

[31] 12 U.S.C. 5461(b).

[32] 12 U.S.C. 5464(b).

[33] 12 U.S.C. 5464(b).

[34] 12 U.S.C. 5464(a)(2).

[35] *See* 17 CFR 240.17Ad–22; Securities Exchange Act Release No. 68080 (October 22, 2012), 77 FR 66220 (November 2, 2012) (S7–08–11).

[36] *Id.*

[37] 12 U.S.C. 5464(b).

[38] *Id.*

[39] FICC Letter at 4.

ensure that FICC collects a VaR Charge that better addresses the risk exposure presented by the portfolio of the Netting Member. By better limiting exposure to Netting Members, the proposal is designed to help ensure that, in the event of a member default, GSD's operations would not be disrupted and non-defaulting Netting Members would limit their exposure to losses that they cannot anticipate or control. Accordingly, the Commission believes that the proposal will help to promote safety and soundness at FICC, which in turn will help to reduce systemic risk and support the stability of the broader financial system, consistent with Section 805(b) of the Act.[40]

B. Consistency With Rule 17Ad–22(b)(1) and (b)(2) Under the Exchange Act

The Commission believes that the proposed changes associated with the Margin Proxy are consistent with the requirements of Rules 17Ad–22(b)(1) and (b)(2) under the Exchange Act.[41]

Rule 17Ad–22(b)(1) under the Exchange Act requires a registered clearing agency that performs central counterparty services to establish, implement, maintain, and enforce written policies and procedures reasonably designed to measure its credit exposures to its participants at least once a day and limit its exposures to potential losses from defaults by its participants under normal market conditions so that the operations of the clearing agency would not be disrupted and non-defaulting participants would not be exposed to losses that they cannot anticipate or control.[42] The proposed Margin Proxy would be used daily to help measure FICC's credit exposure to Netting Members. While ICBCFS raises concerns about including the 2007–2009 period, as noted above, the Commission agrees that this look back period should help FICC better monitor the credit exposures presented by its Netting Members by including volatile periods. It should also enhance FICC's overall risk-based margining framework by helping to ensure that the calculation of each GSD Netting Member's Required Fund Deposit would be sufficient to allow FICC to use the defaulting member's own Required Fund Deposit to limit its exposures to potential losses associated with the liquidation of such member's portfolio in the event of a GSD Netting Member default under normal market conditions. Therefore, the Commission believes that the proposal is consistent with the requirements of Rule 17Ad–22(b)(1).[43]

Rule 17Ad–22(b)(2) under the Exchange Act requires a registered clearing agency that performs central counterparty services to establish, implement, maintain, and enforce written policies and procedures reasonably designed to use margin requirements to limit its credit exposures to participants under normal market conditions and use risk-based models and parameters to set margin requirements and review such margin requirements and the related risk-based models and parameters at least monthly.[44] The proposed changes would enhance the risk-based model and parameters that establish daily margin requirements for Netting Members by enabling FICC to better identify the risk posed by a Netting Member's unsettled portfolio and to quickly adjust and collect additional deposits as needed to cover those risks. Because the proposed changes are designed to calculate each Netting Member's Required Fund Deposit at a 99 percent confidence level, the proposal also should help mitigate losses to FICC and its members, in the event that such Netting Member defaults under normal market conditions. Therefore, the Commission believes that the proposal is consistent with the requirements of Rule 17Ad–22(b)(2).[45]

IV. Conclusion

It is therefore noticed, pursuant to Section 806(e)(1)(I) of the Clearing Supervision Act,[46] that the Commission *does not object* to the Advance Notice (SR–FICC–2017–801) and that FICC be hereby is *authorized* to implement the change as of the date of this notice or the date of an order by the Commission approving the Proposed Rule Change (SR–FICC–2017–001) that reflects the changes that are consistent with this Advance Notice, whichever is later.

By the Commission.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–06682 Filed 4–4–17; 8:45 am]

BILLING CODE 8011–01–P

[40] *Id.*

[41] 17 CFR 240.17Ad–22(b)(1) and (b)(2).

[42] 17 CFR 240.17Ad–22(b)(1).

[43] *Id.*

[44] 17 CFR 240.17Ad–22(b)(2).

[45] *Id.*

[46] 12 U.S.C. 5465(e)(1)(I).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80350; File No. SR–BatsBZX–2017–07]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Under BZX Rule 14.11(c)(4) the Shares of the VanEck Vectors AMT-Free National Municipal Index ETF of VanEck Vectors ETF Trust

March 30, 2017.

On January 27, 2017, Bats BZX Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade under BZX Rule 14.11(c)(4) the shares of the VanEck Vectors AMT-Free National Municipal Index ETF of VanEck Vectors ETF Trust. The proposed rule change was published for comment in the **Federal Register** on February 14, 2017.[3] On March 10, 2017, the Exchange filed Amendment No. 1 to the proposed rule change.[4] The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act [5] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is March 31, 2017. The Commission is extending this 45-day time period. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79989 (February 8, 2017), 82 FR 10615.

[4] Amendment No. 1 is available at: *https://www.sec.gov/comments/sr-batsbzx-2017-07/batsbzx201707-1667531-148997.pdf.*

[5] 15 U.S.C. 78s(b)(2).

proposed rule change, as modified by Amendment No. 1.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates May 15, 2017, as the date by which the Commission shall either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–BatsBZX–2017–07), as modified by Amendment No. 1.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–06686 Filed 4–4–17; 8:45 am]

BILLING CODE 8011–01–P

[6] *Id.*

[7] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32585; File No. 812–14694]

Winton Diversified Opportunities Fund and Winton Capital US LLC

March 30, 2017.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(a)(2), 18(c) and 18(i) of the Act, under sections 6(c) and 23(c) of the Act for an exemption from rule 23c–3 under the Act, and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end management investment companies to issue multiple classes of shares and to impose asset-based service and/or distribution fees, early withdrawal charges (''EWCs'') and early repurchase fees (''Early Repurchase Fee'').

APPLICANTS: Winton Diversified Opportunities Fund (the ''Fund'') and Winton Capital US LLC (the ''Adviser'').

FILING DATES: The application was filed on August 18, 2016 and amended February 22, 2017.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail.

Hearing requests should be received by the Commission by 5:30 p.m. on April 25, 2017, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: Winton Diversified Opportunities Fund and Winton Capital US LLC, c/o Michael Beattie, SEI Corporation, One Freedom Valley Drive, Oaks, Pennsylvania 19456.

FOR FURTHER INFORMATION CONTACT: Elizabeth G. Miller, Senior Counsel, at (202) 551–8707, or Holly Hunter-Ceci, Acting Assistant Chief Counsel, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Fund is a Delaware statutory trust that is registered under the Act as a diversified, closed-end management investment company. The Fund's investment objective is to seek long-term capital appreciation through compound growth.

2. The Adviser is a Delaware limited liability company and is registered as an investment adviser under the Investment Advisers Act of 1940. The Adviser serves as investment adviser to the Fund.

3. The applicants seek an order to permit the Fund to issue multiple classes of shares, each having its own fee and expense structure, and to impose asset-based service and/or distribution fees, EWCs and Early Repurchase Fees.

4. Applicants request that the order also apply to any continuously-offered registered closed-end management investment company that may be organized in the future for which the Adviser or any entity controlling, controlled by, or under common control with the Adviser, or any successor in interest to any such entity,[1] acts as investment adviser and which operates as an interval fund pursuant to rule 23c–3 under the Act or provides periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Securities Exchange Act of 1934 (''Exchange Act'') (each, a ''Future Fund'' and together with the Fund, the ''Funds'').[2]

5. The Fund intends to make a continuous public offering of its Class I Shares following the effectiveness of its registration statement (File Nos. 333–201801 and 811–23028) on September 15, 2015. Applicants state that additional offerings by any Fund relying on the order may be on a private placement or public offering basis. Shares of the Funds will not be listed on any securities exchange, nor quoted on any quotation medium. The Funds do not expect there to be a secondary trading market for their shares.

6. If the requested relief is granted, the Fund intends to continuously offer at least one additional class of shares (''Class A Shares'') and may also offer additional classes of shares in the future. Because of the different asset-based service and/or distribution fees, services and any other class expenses that may be attributable to a class of a Fund's shares, the net income attributable to, and the dividends payable on, each class of shares may differ from each other.

7. Applicants state that, from time to time, the Fund may create additional classes of shares, the terms of which may differ from Class I Shares and Class A Shares in the following respects: (i) The amount of fees permitted by different distribution plans or different service fee arrangements; (ii) voting rights with respect to a distribution plan of a class; (iii) different class designations; (iv) the impact of any class expenses directly attributable to a particular class of shares allocated on a class basis as described in the application; (v) any differences in dividends and net asset value resulting from differences in fees under a distribution plan or in class expenses; (vi) any EWC or other sales load structure; (vii) any Early Repurchase Fees; and (viii) exchange or conversion privileges of the classes as permitted under the Act.

[1] A successor in interest is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Any Fund relying on this relief in the future will do so in a manner consistent with the terms and conditions of the application. Applicants represent that each entity presently intending to rely on the requested relief is listed as an applicant.

8. Applicants state that currently no Fund intends to impose an Early Repurchase Fee. However, in the future, Funds may subject shares to an Early Repurchase Fee at a rate of 2 percent of the aggregate net asset value of a shareholder's shares repurchased by the Fund if the interval between the date of purchase of the shares and the valuation date with respect to the repurchase of those shares is less than one year. Any Repurchase Fee will apply equally to all shareholders of the applicable Fund, regardless of the class of shares held by such shareholders, consistent with Section 18 of the Act and Rule 18f–3 thereunder. To the extent a Fund determines to waive, impose scheduled variations of or eliminate the Early Repurchase Fee, the Fund will comply with the requirements of Rule 22d–1 under the Act as if the Early Repurchase Fee were a CDSL (defined below) and as if the Fund were an open-ended investment company. The Fund's waiver, scheduled variation in, or elimination of, the Early Repurchase Fee will apply uniformly to all shareholders of the Fund regardless of the class of shares held by such shareholders.

9. Applicants state that the Fund may provide periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Exchange Act.[3] A Future Fund may adopt a fundamental investment policy to repurchase a specified percentage of its shares in compliance with rule 23c–3 and make quarterly repurchase offers to its shareholders or provide periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Exchange Act. Any repurchase offers made by the Funds will be made to all holders of shares of each such Fund.

10. Applicants represent that any asset-based service and distribution fees for each class of shares will comply with the provisions of NASD Rule 2830(d) (''NASD Sales Charge Rule'').[4] Applicants also represent that each Fund will disclose in its prospectus the fees, expenses and other characteristics of each class of shares offered for sale by the prospectus, as is required for open-end multiple class funds under Form N–1A. As is required for open-end funds, each Fund will disclose its expenses in shareholder reports, and describe any arrangements that result in breakpoints in or elimination of sales loads in its prospectus.[5] In addition, applicants will comply with applicable enhanced fee disclosure requirements for fund of funds, including registered funds of hedge funds.[6]

11. Each of the Funds will comply with any requirements that the Commission or FINRA may adopt regarding disclosure at the point of sale and in transaction confirmations about the costs and conflicts of interest arising out of the distribution of open-end investment company shares, and regarding prospectus disclosure of sales loads and revenue sharing arrangements, as if those requirements applied to the Fund. In addition, each Fund will contractually require that any distributor of the Fund's shares comply with such requirements in connection with the distribution of such Fund's shares.

12. Each Fund will allocate all expenses incurred by it among the various classes of shares based on the net assets of the Fund attributable to each class, except that the net asset value and expenses of each class will reflect distribution fees, service fees, and any other incremental expenses of that class. Expenses of the Fund allocated to a particular class of shares will be borne on a pro rata basis by each outstanding share of that class. Applicants state that each Fund will comply with the provisions of rule 18f–3 under the Act as if it were an open-end investment company.

13. Applicants state that each Fund may impose an EWC on shares submitted for repurchase that have been held less than a specified period and may waive the EWC for certain categories of shareholders or transactions to be established from time to time. Applicants state that each of the Funds will apply the EWC (and any waivers, scheduled variations, or eliminations of the EWC) uniformly to all shareholders in a given class and consistently with the requirements of rule 22d–1 under the Act as if the Funds were open-end investment companies.

14. Each Fund operating as an interval fund pursuant to rule 23c–3 under the Act may offer its shareholders an exchange feature under which the shareholders of the Fund may, in connection with the Fund's periodic repurchase offers, exchange their shares of the Fund for shares of the same class of (i) registered open-end investment companies or (ii) other registered closed-end investment companies that comply with rule 23c–3 under the Act and continuously offer their shares at net asset value, that are in the Fund's group of investment companies (collectively, ''Other Funds''). Shares of a Fund operating pursuant to rule 23c–3 that are exchanged for shares of Other Funds will be included as part of the amount of the repurchase offer amount for such Fund as specified in rule 23c–3 under the Act. Any exchange option will comply with rule 11a–3 under the Act, as if the Fund were an open-end investment company subject to rule 11a–3. In complying with rule 11a–3, each Fund will treat an EWC as if it were a contingent deferred sales load (''CDSL'').

Applicants' Legal Analysis

Multiple Classes of Shares

1. Section 18(a)(2) of the Act makes it unlawful for a closed-end investment company to issue a senior security that is a stock unless (a) immediately after such issuance it will have an asset coverage of at least 200% and (b) provision is made to prohibit the declaration of any distribution, upon its common stock, or the purchase of any such common stock, unless in every such case such senior security has at the time of the declaration of any such distribution, or at the time of any such purchase, an asset coverage of at least 200% after deducting the amount of such distribution or purchase price, as the case may be. Applicants state that the creation of multiple classes of shares of the Funds may violate section 18(a)(2) because the Funds may not meet such requirements with respect to a class of shares that may be a senior security.

2. Section 18(c) of the Act provides, in relevant part, that a closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the creation of multiple classes of shares of the Funds may be prohibited by section 18(c), as a class may have priority over another class as to payment of dividends because shareholders of different classes would pay different fees and expenses.

[3] Applicants submit that rule 23c–3 and Regulation M under the Exchange Act permit an interval fund to make repurchase offers to repurchase its shares while engaging in a continuous offering of its shares pursuant to Rule 415 under the Securities Act of 1933.

[4] Any reference to the NASD Sales Charge Rule includes any successor or replacement rule that may be adopted by the Financial Industry Regulatory Authority (''FINRA'').

[5] *See* Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies, Investment Company Act Release No. 26372 (Feb. 27, 2004) (adopting release) (requiring open-end investment companies to disclose fund expenses in shareholder reports); and Disclosure of Breakpoint Discounts by Mutual Funds, Investment Company Act Release No. 26464 (June 7, 2004) (adopting release) (requiring open-end investment companies to provide prospectus disclosure of certain sales load information).

[6] Fund of Funds Investments, Investment Company Act Rel. Nos. 26198 (Oct. 1, 2003) (proposing release) and 27399 (Jun. 20, 2006) (adopting release). *See* also Rules 12d1–1, *et seq.* of the Act.

3. Section 18(i) of the Act provides that each share of stock issued by a registered management investment company will be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that multiple classes of shares of the Funds may violate section 18(i) of the Act because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act, or from any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under section 6(c) from sections 18(a)(2), 18(c) and 18(i) to permit the Funds to issue multiple classes of shares.

5. Applicants submit that the proposed allocation of expenses relating to distribution and voting rights among multiple classes is equitable and will not discriminate against any group or class of shareholders. Applicants submit that the proposed arrangements would permit a Fund to facilitate the distribution of its shares and provide investors with a broader choice of shareholder services. Applicants assert that the proposed closed-end investment company multiple class structure does not raise the concerns underlying section 18 of the Act to any greater degree than open-end investment companies' multiple class structures that are permitted by rule 18f–3 under the Act. Applicants state that each Fund will comply with the provisions of rule 18f–3 as if it were an open-end investment company.

Early Withdrawal Charges

1. Section 23(c) of the Act provides, in relevant part, that no registered closed-end investment company shall purchase securities of which it is the issuer, except: (a) On a securities exchange or other open market; (b) pursuant to tenders, after reasonable opportunity to submit tenders given to all holders of securities of the class to be purchased; or (c) under other circumstances as the Commission may permit by rules and regulations or orders for the protection of investors.

2. Rule 23c–3 under the Act permits a registered closed-end investment company (an ''interval fund'') to make repurchase offers of between five and twenty-five percent of its outstanding shares at net asset value at periodic intervals pursuant to a fundamental policy of the interval fund. Rule 23c–3(b)(1) under the Act permits an interval fund to deduct from repurchase proceeds only a repurchase fee, not to exceed two percent of the proceeds, that is paid to the interval fund and is reasonably intended to compensate the fund for expenses directly related to the repurchase.

3. Section 23(c)(3) provides that the Commission may issue an order that would permit a closed-end investment company to repurchase its shares in circumstances in which the repurchase is made in a manner or on a basis that does not unfairly discriminate against any holders of the class or classes of securities to be purchased.

4. Applicants request relief under section 6(c), discussed above, and section 23(c)(3) from rule 23c–3 to the extent necessary for the Funds to impose EWCs on shares of the Funds submitted for repurchase that have been held for less than a specified period.

5. Applicants state that the EWCs they intend to impose are functionally similar to CDSLs imposed by open-end investment companies under rule 6c–10 under the Act. Rule 6c–10 permits open-end investment companies to impose CDSLs, subject to certain conditions. Applicants note that rule 6c–10 is grounded in policy considerations supporting the employment of CDSLs where there are adequate safeguards for the investor and state that the same policy considerations support imposition of EWCs in the interval fund context. In addition, applicants state that EWCs may be necessary for the distributor to recover distribution costs. Applicants represent that any EWC imposed by the Funds will comply with rule 6c–10 under the Act as if the rule were applicable to closed–end investment companies. The Funds will disclose EWCs in accordance with the requirements of Form N–1A concerning CDSLs.

Asset-Based Service and/or Distribution Fees

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d–1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

2. Rule 17d–3 under the Act provides an exemption from section 17(d) and rule 17d–1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b–1 under the Act. Applicants request an order under section 17(d) and rule 17d–1 under the Act to the extent necessary to permit the Funds to impose asset-based service and/or distribution fees. Applicants have agreed to comply with rules 12b–1 and 17d–3 as if those rules applied to closed–end investment companies, which they believe will resolve any concerns that might arise in connection with a Fund financing the distribution of its shares through asset-based service and/or distribution fees.

3. For the reasons stated above, applicants submit that the exemptions requested under section 6(c) are necessary and appropriate in the public interest and are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants further submit that the relief requested pursuant to section 23(c)(3) will be consistent with the protection of investors and will insure that applicants do not unfairly discriminate against any holders of the class of securities to be purchased. Finally, applicants state that the Funds' imposition of asset-based service and/or distribution fees is consistent with the provisions, policies and purposes of the Act and does not involve participation on a basis different from or less advantageous than that of other participants.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Each Fund relying on the order will comply with the provisions of rules 6c–10, 12b–1, 17d–3, 18f–3, 22d–1, and, where applicable, 11a–3 under the Act, as amended from time to time, as if those rules applied to closed–end management investment companies, and will comply with the NASD Sales Charge Rule, as amended from time to time, as if that rule applied to all closed–end management investment companies.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–06693 Filed 4–4–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80348; File No. SR–NASDAQ–2017–032]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Nasdaq Rule 5710

March 30, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on March 22, 2017, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Nasdaq Rule 5710 (Securities Linked to the Performance of Indexes and Commodities (Including Currencies)).

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Nasdaq Rule 5710 (Securities Linked to the Performance of Indexes and Commodities (Including Currencies)), which allows the listing of Linked Securities.[3] The proposed rule change will modify language in Nasdaq Rule 5710(e) to reflect a substantially similar change previously made by NYSE Arca, Inc. (''Arca'') to Arca Rule 5.2(j)(6)(A)(e)[4] so both the Nasdaq and Arca provisions will be substantively identical.

Specifically, Nasdaq Rule 5710(e) states that for listing of a Linked Security,[5] the issuer will be expected to have a minimum tangible net worth in excess of $250 million and exceed by at least 20% the earnings requirements set forth in Nasdaq Rule 5405(b)(1)(A).[6] The proposed rule change deletes the portion of this rule that requires that a company exceed by at least 20% the earnings requirements set forth in Nasdaq Rule 5405(b)(1)(A).[7]

The proposed rule change will also modify the $250 million minimum tangible net worth requirement with a parenthetical stating that if the Linked Securities are fully and unconditionally guaranteed by an affiliate of the company, Nasdaq will rely on such affiliate's tangible net worth for purposes of this requirement.

Nasdaq Rule 5710(e) also provides an alternative listing requirement where a company can list a Linked Security with tangible net worth requirement in excess of $150 million (instead of $250 million), provided that the original issue price of all the company's other index-linked note offerings (combined with index-linked note offerings of the company's affiliates) listed on a national securities exchange does not exceed 25% of the company's tangible net worth.

This alternative listing requirement also will be modified to be substantively identical to the Arca provision. Thus, while a company's listing of a Linked Security under the Nasdaq provision must currently also meet the requirement that the company also exceed by at least 20% the earnings requirements set forth in Nasdaq Rule 5405(b)(1)(A), that earnings test will likewise be deleted.[8]

The proposed rule change will both delete the Nasdaq language discussed above, as well as add the following substantively identical language from the Arca provision, to substantially conform the Nasdaq language to the Arca language. First, that the original issue price of the Linked Securities, combined with all of the company's other Linked Securities listed on a national securities exchange or otherwise publicly traded in the United States, must not be greater than 25 percent of the company's tangible net worth at the time of issuance. Second, a parenthetical will be added following this to say that if the Linked Securities are fully and unconditionally guaranteed by an affiliate of the Company, Nasdaq will apply the provisions of this paragraph to such affiliate instead of the Company and will include in its calculation all Linked Securities that are fully and unconditionally guaranteed by such affiliate. Third, as with the Arca provision, a sentence at the end of this listing standard will state that Government issuers and supranational entities will be evaluated on a case-by-case basis.

The Exchange believes that conforming Nasdaq's listing standards to Arca's does not impact investor protections and will enhance competition by establishing an equivalent listing standard across Arca and Nasdaq for Linked Securities. Although Nasdaq will be deleting the earnings test, investors will not be adversely affected since a Company will still be required to have at least either (i) $250 million, or (ii) $150 million in tangible net worth and subject to a maximum issuance threshold

[3] *See* Nasdaq Rule 5710, which in defining Linked Securities states that ''Nasdaq will consider for listing and trading equity index-linked securities (''Equity Index-Linked Securities'') and commodity-linked securities (''Commodity-Linked Securities''), fixed income index-linked securities (''Fixed Income Index-Linked Securities''), futures-linked securities (''Futures-Linked Securities'') and multifactor index-linked securities (''Multifactor Index-Linked Securities'' and, together with Equity Index-Linked Securities, Commodity-Linked Securities, Fixed Income Index-Linked Securities and Futures-Linked Securities, ''Linked Securities'') that in each case meet the applicable criteria of this Rule.''

[4] *See* Securities Exchange Act Release No. 56637 (Oct. 10, 2007), 72 FR 58704 (Oct. 16, 2007) (SR–NYSEArca-2007–92). At the time of Arca's initial filing, this rule was Arca Rule 5.2(j)(6)(e).

[5] This requirement will also apply for continued listing effective August 1, 2017. *See* Securities Exchange Act Release No. 79784 (Jan. 12, 2017), 82 FR 6664 (Jan. 19, 2017) (SR–NASDAQ–2016–135).

[6] Nasdaq Rule 5405(b)(1)(A) requires a company under the ''Income Standard'' alternative for the initial listing of a primary equity security on the Nasdaq Global Market to have ''Annual income from continuing operations before income taxes of at least $1,000,000 in the most recently completed fiscal year or in two of the three most recently completed fiscal years.''

[7] *Id.*

[8] *Id.*

(depending on which requirement the Company is able to satisfy). Nasdaq will also take into consideration whether the Linked Securities are fully and unconditionally guaranteed by an affiliate of the Company. These conforming changes will provide a strong indication of the company's ability to make necessary payments on the Linked Security.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Section 6(b)(5) of the Act,[10] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that the proposed rule change to conform Nasdaq Rule 5710(e) so that it is substantially similar to Arca Rule 5.2(j)(6)(A)(e) will promote just and equitable principles of trade, and, in general protect investors and the public interest since it will promote the application of consistent listing standards for Linked Securities. Specifically, although Nasdaq will be deleting the earnings test, investors will not be adversely affected since a Company will still be required to have at least either (i) $250 million, or (ii) $150 million in tangible net worth and subject to a maximum issuance threshold (depending on which requirement the Company is able to satisfy). Nasdaq will also take into consideration whether the Linked Securities are fully and unconditionally guaranteed by an affiliate of the Company. The continuing minimum tangible net worth requirements coupled with the conforming changes will provide a strong indication of the company's ability to make necessary payments on the Linked Security.

For these reasons, Nasdaq believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, as amended. Instead, the Exchange believes that the proposed rule change to conform Nasdaq Rule 5710(e) so that it is substantially similar to Arca Rule 5.2(j)(6)(A)(e) may enhance competition since Nasdaq and Arca [11] will have substantially similar listing requirements for Linked Securities.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6) thereunder.[13]

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange has stated that the proposal will lead to a more consistent initial and continued listing standard across Nasdaq and Arca for Linked Securities and thereby enhance competition. The Exchange also has noted that the proposed rule change is substantially similar to a change previously made by Arca.[15] Based on the foregoing, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2017–032 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NASDAQ–2017–032. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] *Supra* note 4.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] *See supra* note 4.

[16] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2017–032 and should be submitted on or before April 26, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–06684 Filed 4–4–17; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 9946]

In the Matter of the Designation of Sami Bashur Bouras; Also Known as Wakrici; Also Known as Khadim; as a Specially Designated Global Terrorist pursuant to Section 1(b) of Executive Order 13224, as Amended

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 individual known as Sami Bashur Bouras, also known as Wakrici, also known as Khadim, 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: March 14, 2017.

Rex W. Tillerson,

Secretary of State.

[FR Doc. 2017–06653 Filed 4–4–17; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice: 9945]

In the Matter of the Designation of El Shafee Elsheikh; Also Known as Shaf; Also Known as Shafee; as a Specially Designated Global Terrorist pursuant to Section 1(b) of Executive Order 13224, as Amended

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 individual known as El Shafee Elsheikh, also known as Shaf, also known as Shafee, 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: March 13, 2017.

Rex W. Tillerson,

Secretary of State.

[FR Doc. 2017–06651 Filed 4–4–17; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice: 9943]

E.O. 13224 Designation of Anjem Choudary, aka Abu Luqman 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 Anjem Choudary, also known as Abu Luqman, 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: March 13, 2017.

Rex W. Tillerson,

Secretary of State.

[FR Doc. 2017–06647 Filed 4–4–17; 8:45 am]

BILLING CODE 4710–AD–P

TENNESSEE VALLEY AUTHORITY

Production of Tritium in Commercial Light Water Reactors

AGENCY: Tennessee Valley Authority.

ACTION: Record of decision.

SUMMARY: This notice is provided in accordance with the Council on Environmental Quality's regulations and the Tennessee Valley Authority's (TVA) procedures for implementing the National Environmental Policy Act (NEPA). TVA has decided to implement the preferred alternative identified in the Final Supplemental Environmental Impact Statement (SEIS) for the Production of Tritium in a Commercial Light Water Reactor, issued March 4, 2016, prepared by the U.S. Department of Energy National Nuclear Security Administration (DOE/NNSA). The decision allows for the production of tritium using TVA reactors at both the Watts Bar and Sequoyah sites in eastern Tennessee and continues an interagency agreement with DOE/NNSA under The Economy Act to provide irradiation services for producing tritium in TVA light water reactors.

FOR FURTHER INFORMATION CONTACT: Matthew Higdon, Tennessee Valley Authority, NEPA Specialist, 400 West Summit Hill Drive (WT11D), Knoxville,

Tennessee 37902; telephone (865) 632–8051; or email *mshigdon@tva.gov.*

SUPPLEMENTARY INFORMATION: TVA adopted the Final SEIS on March 4, 2016 (81 FR 11557–11558) in accordance with 40 CFR 1506.3. As a cooperating agency, TVA provided subject matter expertise, independent review and evaluation, and close coordination with DOE/NNSA during the environmental review process, including preparation of the Draft SEIS and the Final SEIS. DOE/NNSA issued a Record of Decision (ROD) based on the Final SEIS on June 22, 2016 (81 FR 40685). By this notice, TVA is providing notification of its decision and agency reasoning.

Background

The DOE is responsible for supplying nuclear materials for national security needs and ensuring that the nuclear weapons stockpile remains safe and reliable. Tritium, a radioactive isotope of hydrogen, is an essential component of every weapon in the current and projected U.S. nuclear weapons stockpile. Unlike other nuclear materials used in nuclear weapons, tritium decays at a rate of 5.5 percent per year. Accordingly, as long as the Nation relies on a nuclear deterrent, the tritium in each nuclear weapon must be replenished periodically.

In March 1999, DOE/NNSA published the Final EIS for Production of Tritium in a Commercial Light Water Reactor, which addressed the proposed interagency agreement with TVA to produce tritium at TVA reactors using tritium-producing burnable absorber rods (TPBARs). In May 1999, DOE published the ROD for the 1999 EIS, identifying its decision to implement the agreement for tritium production at the Watts Bar Unit 1 reactor (Watts Bar 1) in Rhea County, Tennessee, and Sequoyah Units 1 and 2 reactors (Sequoyah 1 and 2) in Hamilton County, Tennessee. Under the proposal, TVA would irradiate up to 3,400 TPBARs per reactor per fuel cycle, which lasts about 18 months. The agreement was needed by DOE/NNSA because at the time the U.S. nuclear weapons complex did not have the capability to produce the amounts of tritium that were needed to support the Nation's current and future nuclear weapons stockpile.

Following the environmental review, an agreement with DOE/NNSA was approved by the TVA Board of Directors in late 1999 and, in May 2000, TVA issued a ROD and adopted the DOE/NNSA's EIS (65 FR 26259). In 2000, TVA entered into an interagency agreement with DOE/NNSA under The Economy Act to provide irradiation services for producing tritium in TVA light water reactors through November 2035.

In explaining its decision in the ROD, TVA noted that the preamble to the TVA Act of 1933 identifies national defense as one of the purposes for its enactment, that Sections 15d(h) and 31 of the TVA Act declare that the Act should be liberally construed to aid TVA in discharging its responsibilities for the advancement of national defense, and that there have been numerous occasions on which TVA supported the Nation's defense efforts. In the ROD, TVA stated that this mandate to support the national defense was among the factors for consideration in approving the production of tritium.

TVA received license amendments from the U.S. Nuclear Regulatory Commission (NRC) in 2002 to produce tritium in Watts Bar 1 reactor and both Sequoyah reactors and has been producing tritium at the Watts Bar 1 reactor since 2003 (TVA has not produced tritium in Sequoyah 1 or 2; that has remained a viable option). Since 2003, irradiation experience at Watts Bar has shown that the permeation rate per TPBAR per year has been higher than the estimate that was included and analyzed in the 1999 EIS by DOE/NNSA. In the 1999 EIS, DOE/NNSA estimated that tritium permeated through the wall of the TPBARs into the reactor coolant at a rate of one curie per TPBAR per year. However, experience at Watts Bar has shown that the actual permeation rate is 3–4 curies per TPBAR per year (there are approximately 10,000 curies of tritium produced by a TPBAR). The higher-than-expected permeation rate has resulted in limitations on the number of TPBARs that TVA can irradiate in its reactors to meet DOE/NNSA's projected tritium requirements. Watts Bar Unit 2 (Watts Bar 2), which began commercial operation in late 2016, is not currently licensed for tritium production.

DOE/NNSA initiated the SEIS in 2011 to supplement its previous analysis to address the higher rates of permeation of tritium from TPBARs at TVA sites and to evaluate increasing tritium production quantities to meet requirements. In the SEIS analysis, DOE/NNSA used a conservative (*i.e.,* bounding) estimate of tritium permeation rate, as well as a conservative interpretation of the DOE/NNSA's revised estimate of the maximum number of TPBARs necessary to support current tritium supply requirements.

Six alternatives were analyzed in the SEIS, including alternatives to utilize Watts Bar 2. *The No Action Alternative* assumed irradiation of up to a total of 2,040 TPBARs every 18 months using Watts Bar 1 and Sequoyah 1 and 2. This alternative was based on the estimate in the 1999 EIS that a maximum of 3,400 curies of tritium would be released from any reactor in a given year, combined with an assumption of a conservative release of 5 curies for each TPBAR annually, or a total of 680 TPBARs in any given reactor. *Alternatives 1 and 2* assumed TVA would irradiate up to a total of 2,500 TPBARs every 18 months at only one site—only at the Watts Bar site under Alternative 1 and only at the Sequoyah site under Alternative 2. *Alternative 3* assumed TVA would irradiate up to a total of 2,500 TPBARs every 18 months using both the Watts Bar and Sequoyah sites. *Alternatives 4 and 5* assumed TVA would irradiate up to a total of 5,000 TPBARs every 18 months at only one site—only at the Watts Bar site using Watts Bar 1 and 2 under Alternative 4 and only at the Sequoyah site using Sequoyah 1 and 2 under Alternative 5.

In its Final SEIS, DOE/NNSA identified *Alternative 6* as the preferred alternative. Under this alternative, TVA would irradiate up to a total of 5,000 TPBARs every 18 months using both the Sequoyah and Watts Bar sites. Because TVA would irradiate a maximum of 2,500 TPBARs in any one reactor, one or both reactors at each of the sites may be involved. In discussing its preference, DOE/NNSA acknowledged that while the irradiation of a total of 2,500 TPBARs every 18 months is likely to continue to meet near-term national security requirements, implementing Alternative 6 provides DOE/NNSA with the greatest flexibility to address potential future scenarios because it encompasses the full numerical range of TPBARs that could, under any currently foreseeable circumstances, be irradiated in an 18-month period at the TVA reactors to satisfy national security requirements.

Environmental Consequences

In the SEIS, DOE/NNSA provided supplemental analysis of the potential impacts of each alternative on land use, aesthetics, climate and air quality, geology and soils, water resources, biological resources, cultural resources, transportation, infrastructure and utilities, socioeconomics and environmental justice, and human health and safety. Also addressed were impacts associated with potential accidents and intentional destructive acts and those associated with waste and spent nuclear fuel management. The potential environmental impacts of each alternative are summarized for

comparison in the Summary and Section 2.5 of the Final SEIS.

The key findings of the SEIS are (1) Tritium releases from normal operations with TPBAR irradiation would have an insignificant impact on the health of workers and the public; (2) tritium releases from TPBAR irradiation would increase tritium concentrations in the Tennessee River in comparison with not irradiating TPBARs; however, the tritium concentration at any drinking water intake would remain well below the maximum permissible Environmental Protection Agency drinking water limit of 20,000 picocuries per liter; (3) TPBAR irradiation would not have a significant adverse impact on the operation and safety of TVA reactor facilities, and the potential risks from accidents would remain essentially the same whether TPBARs were irradiated in a TVA reactor or not; and (4) irradiation of 2,500 TPBARs in a single reactor would increase spent nuclear fuel generation by about 24 percent per fuel cycle and irradiation of 5,000 TPBARs at a single site would increase spent nuclear fuel generation at either Watts Bar or Sequoyah by about 48 percent per fuel cycle; however, TVA has a plan to manage the increased volume of spent nuclear fuel assemblies.

Environmentally Preferable Alternative

In its June 2016 ROD, DOE/NNSA identified the No Action Alternative as the environmentally preferable alternative after considering the potential impacts to each resource area by alternative. TVA concurs with this determination. Fewer environmental impacts would result from the No Action Alternative because the alternative would have the lowest limiting value considered for the total number of TPBARs proposed to be irradiated (no more than 2,040 TPBARs every 18 months).

Decision

In its June 2016 ROD, DOE/NNSA stated its intent to implement the preferred alternative, Alternative 6, under the terms of the existing interagency agreement with TVA. TVA has decided to implement Alternative 6 as well, which allows for the irradiation of a total of 5,000 TPBARs every 18 months using both the Watts Bar and Sequoyah sites. Because TVA could irradiate a maximum of 2,500 TPBARs in any one reactor, one or both reactors at each of the sites could be used. In the SEIS, DOE/NNSA assumed for Alternative 6 that each site would irradiate 2,500 TPBARs every 18 months. However, because the SEIS analyzes the impacts of irradiating up to 5,000 TPBARs at a single site, Alternative 6 is not intended to limit the number of TPBARs irradiated at either the Watts Bar or Sequoyah site, so long as no more than a total of 5,000 TPBARs is irradiated every 18 months, with no more than 2,500 TPBARs in any reactor core. This decision allows for irradiation of TPBARs at the Sequoyah site in the future; however, TVA does not currently have plans to irradiate TPBARs at the Sequoyah site in the near term.

In June 2016, TVA agreed to assess the potential for tritium production at Watts Bar 2. As a result of that assessment, TVA is planning to submit a license amendment to the NRC in late 2017 to authorize irradiation of up to 1,792 TPBARs in Watts Bar 2. Subject to approval of the license agreement, tritium production in Watts Bar 2 is currently projected to start in the fall of 2020 with the loading of approximately 600 to 704 TPBARs. Plans further call for Watts Bar 2 to be irradiating approximately 1,500 to 1,792 TPBARs by December 2025.

The basis for TVA's decision is its commitment to provide irradiation services for producing tritium for DOE/NNSA based on the interagency agreement established in 2000 between the two agencies. TVA concurs that the proposal reflects responsible planning on the part of DOE/NNSA and provides the greatest flexibility for DOE/NNSA to meet future tritium production requirements through the potential availability of up to four reactors (*i.e.,* the addition of Watts Bar 2) to assist in meeting national security requirements. No other alternative reviewed in the SEIS provided the desired flexibility. The decision represents TVA's continued commitment to support the Nation's defense efforts and national security requirements.

Mitigation Measures

The SEIS identified several mitigation measures that would reduce potential impacts from tritium releases. In the event that TVA decides to irradiate TPBARs at Sequoyah site or facilitate routine tritium management, TVA would construct and operate a 500,000-gallon tritiated water tank system (similar to the system at the Watts Bar site) at Sequoyah to mitigate potential impacts from tritium releases. TVA would use the respective tank systems at both sites to store tritiated water after it passed through the liquid radioactive waste processing system. TVA would release the stored tritiated water to the Tennessee River by the existing pathways at the site. The tank systems would have sufficient capacity to store and release the water to the Tennessee River at appropriate times (that is, TVA will release stored tritiated water from the tank during times of higher river flows for better dilution), and it will enable TVA to minimize the potential impacts of tritiated water releases. The systems would enable TVA to plan fewer releases each year and to ensure that site effluents would continue to remain well below regulatory concentration limits. Additionally, TVA will continue to monitor its operations for emissions to air and water in accordance with NRC licensing requirements. TVA has adopted all practicable means to avoid or minimize environmental harm from the selected alternative.

David M. Czufin,

Senior Vice President, Nuclear Engineering and Operations Support.

[FR Doc. 2017–06463 Filed 4–4–17; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Sweetwater Municipal Airport in Sweetwater, Texas; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request to release airport property; correction.

SUMMARY: The FAA published a document in the **Federal Register** on March 15, 2017, concerning the release of airport property at the South Texas Regional Airport in Hondo, Texas. The document contained the incorrect airport in the subject heading.

FOR FURTHER INFORMATION CONTACT: Anthony Mekhail, 817–222–5663.

Correction

In the **Federal Register** of March 15, 2017, in FR Doc. 2017–05018, make the following corrections:

1. On page 13918, in the second column, the subject heading is corrected to ''Notice of Intent to Rule on Request to Release Airport Property at Sweetwater Municipal Airport in Sweetwater, Texas,'' as set out in the subject heading of this document.

2. On page 13918, in the third column, in the first sentence of the **SUPPLEMENTARY INFORMATION** section, the phrase ''South Texas Regional Airport at Hondo'' is corrected to ''Sweetwater Municipal Airport in Sweetwater.''

Issued in Fort Worth, Texas, on March 22, 2017.

Ignacio Flores,

Director, Airports Division.

[FR Doc. 2017–06755 Filed 4–4–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2017–12]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before April 25, 2017.

ADDRESSES: You may send comments identified by Docket Number FAA–2016–3324 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 683–7788, 800 Independence Avenue SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on March 30, 2017.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2016–3324.

Petitioner: STEM+C Inc.

Section of 14 CFR Affected: 61.113(a)(b); 61.133(a); 91.7(a); 91.119; 91.121; 91.151(a); 91.405(a); 91.407(a)(1); 91.409(a)(2); 91.417(a)(b).

Description of Relief Sought: STEM+C Inc., an educational company defined as, ''Science, technology, engineering and math'', seeks an exemption to operate small unmanned aircraft systems (sUAS). The requested relief is for ''teams'' of students registered and authorized by STEM+C Inc. to participate in ''Spaceport America and STEM+C Flight Series'' at Spaceport America in New Mexico. The goal of this project is to tow a sUAS (RvJet) under a weather balloon to a maximum operating altitude of 115,000 ft. mean sea level (msl). At 115,000 ft. msl a release signal will be sent to the RvJet, which will cause the RvJet to detach from the weather balloon. The RvJet will then be flown to Spaceport America via control link and video link. The proposed airspace is a 35 nautical mile (nm) radius from a point defined by: Latitude 32.9905 and Longitude 106.9736.

[FR Doc. 2017–06768 Filed 4–4–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Aging Aircraft Program (Widespread Fatigue Damage)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew a previously approved information collection. The ''Aging Aircraft Program (Widespread Fatigue Damage)'' final rule amended FAA regulation pertaining to certification and operation of transport category airplanes to preclude widespread fatigue damage in those airplanes.

DATES: Written comments should be submitted by May 5, 2017.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

PUBLIC COMMENTS INVITED: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0743.

Title: Aging Aircraft Program (Widespread Fatigue Damage).

Form Numbers: None.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on December 14, 2016 (81 FR 90407). There were no comments. FAA regulations require that type certificate and supplemental type certificate holders use documentation to demonstrate to their FAA Oversight Office that they have complied by establishing limits of validity of the engineering data that supports the maintenance program (LOVs). Operators will submit the LOV to their Principal Maintenance Inspectors to demonstrate that they are compliant.

Respondents: Approximately 30 operators.

Frequency: On occasion.

Estimated Average Burden per Response: 20 hours.

Estimated Total Annual Burden: 167 hours.

Issued in Washington, DC, on March 29, 2017.

Ronda L. Thompson,

FAA Information Collection Clearance Officer, Performance, Policy & Records Management Branch, ASP–110.

[FR Doc. 2017–06746 Filed 4–4–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Commercial Aviation Safety Team Safety Enhancements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew a previously approved information collection.

DATES: Written comments should be submitted by May 5, 2017.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

PUBLIC COMMENTS INVITED: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION: The FAA is collecting safety-related data regarding the voluntary implementation of Commercial Aviation Safety Team (CAST) safety enhancements (SEs) from certificate holders conducting operations under 14 CFR part 121 and Parts 121/135.

OMB Control Number: 2120–0757.

Title: Commercial Aviation Safety Team Safety Enhancements.

Form Numbers: None.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on December 14, 2016 (81 FR 90408). There were no comments. The FAA is collecting safety-related data regarding the voluntary implementation of Commercial Aviation Safety Team safety enhancements from certificate holders conducting operations under 14 CFR part 121 and Parts 121/135. Certificate-holder participation in this data collection will be voluntary and is not required by regulation. As CAST SEs are finalized, the FAA will determine the details of individual information collections in consultation with CAST and certificate holders.

Respondents: Approximately 100 respondents.

Frequency: On occasion.

Estimated Average Burden per Response: 40 minutes.

Estimated Total Annual Burden: 1333.33 hours.

Issued in Washington, DC, on March 29, 2017.

Ronda L Thompson,

FAA Information Collection Clearance Officer, Performance, Policy & Records Management Branch, ASP–110.

[FR Doc. 2017–06743 Filed 4–4–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Automatic Dependent Surveillance Broadcast (ADS–B) Out Performance Requirements To Support Air Traffic Control (ATC) Service

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew a previously approved information collection. FAA regulations require performance requirements for certain avionics equipment on aircraft operating in specified classes of airspace within the United States national Airspace System. This facilitates the use of ADS–B for aircraft surveillance by FAA air traffic controllers to accommodate the expected increase in demand for air transportation.

DATES: Written comments should be submitted by May 5, 2017.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of

information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0728.

Title: Automatic Dependent Surveillance Broadcast (ADS–B) Out Performance Requirements to Support Air Traffic Control (ATC) Service.

Form Numbers:

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on December 14, 2016 (81 FR 90408). There were no comments. 14CFR part 91 includes requirements for certain avionics equipment on aircraft operating in specified classes of airspace within the United States National Airspace System (NAS) This collection supports the information needs of the FAA by requiring avionics equipment that continuously transmits aircraft information to be received by the FAA, via automation, for use in providing air traffic surveillance services. This information is collected electronically without input from the human operator.

Respondents: Approximately 64,339 operators.

Frequency: Information is collected automatically.

Estimated Average Burden per Response: 1 hour.

Estimated Total Annual Burden: 64,339 hours.

Issued in Washington, DC, on March 29, 2017.

Ronda L. Thompson,

FAA Information Collection Clearance Officer, Performance, Policy & Records Management Branch, ASP–110.

[FR Doc. 2017–06741 Filed 4–4–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Permanent Closure of the St. Marys Airport, St. Marys, Georgia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA is publishing this notice of a pending action required by statute. The National Defense Authorization Act (NDAA) for Fiscal Year 2017 requires the FAA to release the City of St. Marys, Georgia, from all restrictions, conditions, and limitations on the use, encumbrance, conveyance, and closure of the St. Marys Airport. On March 6, 2017, the City of St. Marys provided written notice to the Federal Aviation Administration (FAA) of its intent to permanently close the St. Marys Airport (4J6), in St. Marys, Georgia on July 14, 2017. The City of St. Marys provided this notice to the FAA in excess of 30 days before the permanent closure. The FAA hereby publishes the City of St. Marys' notice of permanent closure of the St. Marys Airport.

DATES: The permanent closure of the airport is effective as of July 14, 2017.

FOR FURTHER INFORMATION CONTACT: Rob Rau, Georgia Program Manager, Atlanta Airports District Office, 1701 Columbia Ave., Room 220, College Park, Georgia 30337–2747, (404) 305–6748.

SUPPLEMENTARY INFORMATION: The National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114–328) requires the FAA to release the City of St. Marys, Georgia, from all restrictions, conditions, and limitations on the use, encumbrance, conveyance, and closure of the St. Marys Airport (4J6). This non-towered, general aviation airport consists of approximately 285-acres and 15 based aircraft. Title 49 United States Code 46319 states that a public agency (as defined in section 47102) may not permanently close an airport listed in the National Plan of Integrated Airport Systems under section 47103 without providing written notice to the Administrator of the FAA at least 30 days before the date of the closure. The FAA recognizes that the City of St. Marys met this requirement on March 6, 2017.

Issued in Atlanta, Georgia, on March 28, 2017.

Larry F. Clark,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 2017–06740 Filed 4–4–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: National Flight Data Center Web Portal

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew a previously approved information collection. National Flight Data Center (NFDC) Web Portal forms are used to collect aeronautical information, detailing the physical description and operational status of all components of the National Airspace System (NAS).

DATES: Written comments should be submitted by June 5, 2017.

ADDRESSES: Send comments to the FAA at the following address: Ronda Thompson, Room 441, Federal Aviation Administration, ASP–110, 950 L'Enfant Plaza SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0754.

Title: National Flight Data Center Web Portal.

Form Numbers: FAA Form 7900–1, 7900–2, 7900–3, 7900–4, 7900–5, 7900–6, 7900–7.

Type of Review: Renewal of an information collection.

Background: The National Flight Data Center (NFDC) is the authoritative government source for collecting, validating, storing, maintaining, and disseminating aeronautical data concerning the United States and its territories to support real-time aviation activities. The information collected

ensures the safe and efficient navigation of the national airspace. The information collected is maintained in the National Airspace System Resources (NASR) database which serves as the official repository for NAS data and is provided to government, military, and private producers of aeronautical charts, publications, and flight management systems.

Respondents: Approximately 7,318 representatives of U.S. public airports, U.S. privately-owned instrument landing systems, and non-Federal weather systems.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 25 minutes.

Estimated Total Annual Burden: 1,296 hours.

Issued in Washington, DC, on March 29, 2017.

Ronda L. Thompson,

FAA Information Collection Clearance Officer, Performance, Policy & Records Management Branch, ASP–110.

[FR Doc. 2017–06745 Filed 4–4–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Aviation Research Grants Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew a previously approved information collection. The FAA Aviation Research and Development Grants Program establishes uniform policies and procedures for the award and administration of research grants to colleges, universities, not for profit organizations, and profit organizations for security research. The collection of data is required from prospective grantees in order to adhere to applicable statues and OMB circulars.

DATES: Written comments should be submitted by May 5, 2017.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0559.

Title: Aviation Research Grants Program.

Form Numbers: SF–3881, 9550–5, SF–425, SF–424, SF–270.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on December 14, 2016 (81 FR 90409). There were no comments. This program implements OMB Circular A–110, Public Law 101–508, Section 9205 and 9208 and Public Law 101–604, Section 107(d). Information is required from grantees for the purpose of grant administration and review in accordance with applicable OMB circulars. The information is collected through a solicitation that has been published by the FAA. Prospective grantees respond to the solicitation using a proposal format outlined in the solicitation in adherence to applicable FAA directives, statutes, and OMB circulars.

Respondents: Approximately 100 grantees.

Frequency: On occasion.

Estimated Average Burden per Response: 6.5 hours.

Estimated Total Annual Burden: 650 hours.

Issued in Washington, DC, on March 29, 2017.

Ronda L. Thompson,

FAA Information Collection Clearance Officer, Performance, Policy & Records Management Branch, ASP–110.

[FR Doc. 2017–06742 Filed 4–4–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Helicopter Air Ambulance, Commercial Helicopter, and Part 91 Helicopter Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew a previously approved information collection. On February 21, 2014, the FAA published a final rule entitled, ''Helicopter Air Start Printed Page 58673Ambulance, Commercial Helicopter, and part 91 Helicopter Operations'', to address helicopter air ambulance operations and all commercial helicopter operations conducted under part 135. The FAA also established new weather minimums for helicopters operating under part 91 in Class G airspace.

DATES: Written comments should be submitted by May 5, 2017.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's

performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0756.

Title: Helicopter Air Ambulance, Commercial Helicopter, and Part 91 Helicopter Operations.

Form Numbers: None.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on December 14, 2016 (81 FR 90406). There were no comments. The final rule, ''Helicopter Air Start Printed Page 58673 Ambulance, Commercial Helicopter, and part 91 Helicopter Operations'', addressed helicopter air ambulance operations and all commercial helicopter operations conducted under part 135. The FAA also established new weather minimums for helicopters operating under part 91 in Class G airspace. The final rule also added § 135.613 to Title 14, Code of Federal Regulations. Section 135.613, Approach/departure IFR transitions, describes the required weather minimums to transition into and out of the IFR environment, aiding in the transition from the minimum descent altitude on an instrument approach procedure, to the point of intended landing.

Respondents: Approximately 1,791 operators.

Frequency: On occasion.

Estimated Average Burden per Response: 81 hours.

Estimated Total Annual Burden: 145,404 hours.

Issued in Washington, DC, on March 29, 2017.

Ronda L. Thompson,

FAA Information Collection Clearance Officer, Performance, Policy & Records Management Branch, ASP–110.

[FR Doc. 2017–06744 Filed 4–4–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Notice of Landing Area Proposal

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew a previously approved information collection. FAA Form 7480–1, Notice of Landing Area Proposal, is used to collect information about any construction, alteration, or change to the status or use of an airport.

DATES: Written comments should be submitted by May 5, 2017.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0036.

Title: Notice of Landing Area Proposal.

Form Numbers: 7480–1.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on December 14, 2016 (81 FR 90407). There were no comments. FAR Part 157 requires that each person who intends to construct deactivate, or change the status of an airport, runway, or taxiway must notify the FAA of such activity. The information collected provides the basis for determining the effect the proposed action would have on existing airports and on the safe and efficient use of airspace by aircraft, the effects on existing airspace or contemplated traffic patterns of neighboring airports, the effects on the existing airspace structure and projected programs of the FAA, and the effects that existing or proposed manmade objects (on file with the FAA) and natural objects within the affected area would have on the airport proposal.

Respondents: Approximately 1500 applicants.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 45 minutes.

Estimated Total Annual Burden: 1125 hours.

Issued in Washington, DC, on March 29, 2017.

Ronda L. Thompson,

FAA Information Collection Clearance Officer, Performance, Policy & Records Management Branch, ASP–110.

[FR Doc. 2017–06747 Filed 4–4–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Aircraft Registration and Renewal

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew a previously approved information collection. The information collected is used by the FAA to register and renew aircraft or hold an aircraft in trust. The information required to register and approve ownership of an aircraft is required by any person wishing to

register an aircraft. Information is also required for aircraft owners to renew their registration.

DATES: Written comments should be submitted by May 5, 2017.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0042.

Title: Aircraft Registration and Renewal.

Form Numbers: 8050–1, 8050–1B, 8050–2, 8050–4, 8050–88, 8050,88A, 8050–98.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on December 14, 2016 (81 FR 90406). There were no comments. Public Law 103–272 states that all aircraft must be registered before they may be flown. It sets forth registration eligibility requirements and provides for application for registration as well as suspension and/or revocation of registration. The information collected is used by the FAA to register an aircraft or hold an aircraft in trust. The information requested is required to register and prove ownership.

The information collected on an Aircraft Registration Renewal Application (AC Form 8050–1B) is used by the FAA to verify and update the aircraft registration information collected for an aircraft when it was first registered. The updated registration database will then be used by the FAA to monitor and control U.S. airspace and to distribute safety notices and airworthiness directives to aircraft owners.

Respondents: Approximately 165,000 registrants and owners.

Frequency: On occasion.

Estimated Average Burden per Response: 30 minutes.

Estimated Total Annual Burden: 120,000 hours.

Issued in Washington, DC, on March 29, 2017.

Ronda L. Thompson,

FAA Information Collection Clearance Officer, Performance, Policy & Records Management Branch, ASP–110.

[FR Doc. 2017–06749 Filed 4–4–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0123; FMCSA–2014–0124]

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 3 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 May 5, 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–2013–0123; FMCSA–2013–0124 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 3 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 3 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 April 8, 2017, Clark Dobson (CA) has 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 (79 FR 9036). This driver was included in FMCSA–2013–0124. The exemption was effective on April 8, 2017, and will expire on April 8, 2019.

As of April 8, 2017, Gregory Hill (MS) has 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 18926). This driver was included in FMCSA–2013–0123. The exemption was effective on April 8, 2017, and will expire on April 8, 2019.

As of April 21, 2017, Ronald Rutter (WA) has satisfied renewal conditions for obtaining an exemption from the hearing requirement in 49 CFR 391.41(b)(11), from driving CMVs in interstate commerce (81 FR 12556). This driver was included in FMCSA–2013–0123. The exemption was effective on April 21, 2017, and will expire on April 21, 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 three 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 29, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–06721 Filed 4–4–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1999–5748; FMCSA–1999–6156; FMCSA–2001–11426; FMCSA–2003–16564; FMCSA–2005–22194; FMCSA–2005–23099; FMCSA–2006–23773; FMCSA–2006–24015; FMCSA–2006–24783; FMCSA–2007–0017; FMCSA–2007–0071; FMCSA–2007–29010; FMCSA–2008–0021; FMCSA–2009–0011; FMCSA–2009–0291; FMCSA–2010–0050; FMCSA–2010–0082; FMCSA–2011–0379; FMCSA–2012–0040; FMCSA–2012–0104; FMCSA–2012–0106; FMCSA–2013–0166; FMCSA–2013–0174; FMCSA–2014–0002; FMCSA–2014–0003; FMCSA–2014–0004; FMCSA–2014–0005; FMCSA–2014–0006]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for 88 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these individuals to continue to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

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 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. 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 29, 2016, FMCSA published a notice announcing its decision to renew exemptions for 88 individuals from the vision requirement in 49 CFR 391.41(b)(10) to operate a CMV in interstate commerce and requested comments from the public (81 FR 96196). The public comment period ended on January 30, 2017, and two 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)(10).

The physical qualification standard for drivers regarding vision found in 49 CFR 391.41(b)(10) states that a person is physically qualified to driver a CMV if that person:

> Has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber.

III. Discussion of Comments

FMCSA received two comments in this preceding. Amy Schindler stated that she believes granting these exemptions are potentially unsafe. As discussed in section II of this 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)(10). Whitney-Rose Levis is in favor of granting the exemptions, but states that the Federal Motor Carrier Safety Regulations should be updated to allow monocular drivers to operate without having to renew an exemption.

VI. Conclusion

As of July 8, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 40 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (64 FR 40404; 64 FR 66962; 66 FR 63289; 67 FR 10471; 67 FR 19798; 68 FR 64944; 69 FR 19611; 70 FR 57353; 70 FR 67776; 70 FR 72689; 71 FR 26602; 72 FR 58362; 72 FR 64273; 72 FR 67340; 72 FR 67344; 73 FR 1395; 73 FR 6242; 73 FR 15254; 73 FR 15567; 73 FR 16950; 73 FR 27015; 73 FR 27017; 74 FR 62632; 74 FR 65842; 74 FR 65845; 75 FR 9477; 75 FR 9482; 75 FR 14656; 75 FR 19674; 75 FR 20881; 75 FR 27621; 75 FR 28684; 76 FR 70215; 77 FR 7233; 77 FR 10606; 77 FR 13689; 77 FR 17115; 77 FR 23799; 77 FR 23800; 77 FR 27847; 77 FR 27849; 77 FR 33558; 77 FR 38386; 78 FR 62935; 78 FR 64280; 78 FR 76395; 79 FR 1908; 79 FR 10606; 79 FR 14328; 79 FR 14331; 79 FR 14333; 79 FR 14571; 79 FR 17641; 79 FR 18390; 79 FR 18392; 79 FR 22000; 79 FR 22003; 79 FR 23797; 79 FR 27365; 79 FR 27681; 79 FR 28588; 79 FR 29495; 79 FR 29498; 79 FR 38649):

Guy M. Alloway (OR)
Roger E. Anderson (TX)
Alan A. Andrews (NE)
William C. Christy (FL)
David F. Cialdea (MA)
Gerard J. Cormier (MA)
Travis C. Denzler (MN)
Barent H. Eliason (MO)
Sean O. Feeny (FL)
Paul W. Fettig (SD)
Hector O. Flores (MD)
Brian R. Gallagher (TX)
Todd C. Grider (IN)
Jimmy G. Hall (NC)
Taras G. Hamilton (TX)
Donald W. Holt (MA)
William D. Jackson (MN)
Darryl J. Johnson (MN)
Gregory R. Johnson (SC)
Glenn K. Johnson, Jr. (NC)
John Lucas (NC)
Albert E. Malley (MN)
Steven Martin (IL)
Charles E. Meis (TX)
Carlos A. Mendez-Castellon (VA)
Michael R. Moore (MD)
Charles R. Morris, Jr. (OH)
Hassan Ourahou (KY)
James M. Nohl (MN)
Enoc Ramos III (TX)
Jamey D. Reed (OK)
Christopher A. Reineck (OH)
James T. Rohr (MN)
Joe Sanchez (TX)
James S. Seeno (NV)
Steven S. Smith, Jr. (PA)
Thomas L. Tveit (SD)
Kevin R. White (NC)
Richard W. Wylie (CT)
Steven E. Young (MO)

The drivers were included in one of the following docket Nos: FMCSA–1999–5748; FMCSA–2001–11426; FMCSA–2005–22194; FMCSA–2007–0017; FMCSA–2007–0071; FMCSA–2007–29019; FMCSA–2008–0021; FMCSA–2009–0291; FMCSA–2010–0050; FMCSA–2012–0040; FMCSA–2012–0104; FMCSA–2013–0166; FMCSA–2013–0174; FMCSA–2014–0002; FMCSA–2014–0003; FMCSA–2014–0004; FMCSA–2014–0005. Their exemptions are effective as of July 8, 2016, and will expire on July 8, 2018.

As of July 12, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 7 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (71 FR 4194; 71 FR 13450; 73 FR 15255; 75 FR 9481; 75 FR 20882; 75 FR 22178; 75 FR 25917; 75 FR 25918; 75 FR 39729; 77 FR 15184; 77 FR 27847; 77 FR 27850; 77 FR 36338; 77 FR 38386; 79 FR 35220):

Walter M. Brown (SC)
Chadwick S. Chambers (AL)
William C. Dempsey, Jr. (MA)
Miguel H. Espinoza (CA)
Ricky P. Hastings (TX)
Leland B. Moss (VT)
Markus Perkins (LA)

The drivers were included in one of the following docket Nos: FMCSA–2005–23099; FMCSA–2009–0011; FMCSA–2010–0082; FMCSA–2011–0379; FMCSA–2012–0104. Their exemptions are effective as of July 12, 2016, and will expire on July 12, 2018.

As of July 20, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 17 individuals have satisfied

the conditions for obtaining a renewed exemption from the vision requirements (64 FR 5948; 65 FR 159; 67 FR 10471; 67 FR 10475; 67 FR 19798; 68 FR 74699; 69 FR 8260; 69 FR 10503; 69 FR 19611; 70 FR 57353; 70 FR 72689; 71 FR 6824; 71 FR 6828; 71 FR 6829; 71 FR 14567; 71 FR 19604; 71 FR 26602; 71 FR 30229; 71 FR 32183; 71 FR 41310; 73 FR 11989; 73 FR 15567; 73 FR 27017; 73 FR 27018; 73 FR 28187; 73 FR 36955; 75 FR 36778; 75 FR 36779; 77 FR 38384; 79 FR 35212; 79 FR 35218; 79 FR 47175):

Delmas C. Bergdoll (WV)
Kenneth J. Bernard (LA)
Harvis P. Cosby (MD)
Daniel R. Franks (OH)
Walter D. Hague, Jr. (VA)
William G. Hix (AR)
Timothy B. Hummel (KY)
Clarence H. Jacobsma (IN)
Charles E. Johnston (MO)
Aaron C. Lougher (OR)
William F. Mack (WA)
Patrick E. Martin (WA)
Leland K. McAlhaney (IN)
Ronald M. Price (MD)
Scott D. Russell (WI)
Alton M. Rutherford (FL)
Sandra J. Sperling (WA)

The drivers were included in one of the following docket Nos: FMCSA–1999–6156; FMCSA–2001–11426; FMCSA–2003–16564; FMCSA–2005–22194; FMCSA–2006–23773; FMCSA–2006–24015; FMCSA–2006–24783; FMCSA–2008–0021; FMCSA–2014–0006. Their exemptions are effective as of July 20, 2016, and will expire on July 20, 2018. As of July 22, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 15 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (79 FR 35212; 79 FR 47175):

Abdulahi Abukar (KY)
Gregory K. Banister (SC)
Amanuel W. Behon (WA)
Kenneth W. Bos (MN)
Brian L. Elliot (MO)
Bradley C. Hansell (OR)
Samuel L. Klaphake (MN)
Timothy L. Klose (PA)
Phillip E. Mason (MO)
Kenneth A. Orrino (WA)
Ruel W. Smith (SD)
Loren Smith (SD)
Seth D. Sweeten (ID)
Ronald L. Weiss (MN)
John T. White, Jr. (NC)

The drivers were included in docket No. FMCSA–2014–0006. Their exemptions are effective as of July 22, 2016, and will expire on July 22, 2018.

As of July 30, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 9 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (71 FR 32183; 71 FR 41310; 73 FR 36955; 75 FR 25917; 75 FR 36779; 75 FR 39729; 77 FR 33017; 77 FR 36338; 77 FR 38384; 77 FR 44708; 79 FR 37843; 79 FR 38661):

Dale W. Coblentz (MT)
Lester M. Ellingson, Jr.
Damon G. Gallardo (CA)
Daniel L. Grover (KS)
James E. Modaffari (OR)
Larry A. Nienhaus (MI)
Gregory A. Reinert (MN)
Scott J. Schlenker (WA)
Joseph B. Shaw, Jr. (VA)

The drivers were included in one of the following docket Nos: FMCSA–2006–24783; FMCSA–2010–0082; FMCSA–2012–0106. Their exemptions are effective as of July 30, 2016, and will expire on July 30, 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 29, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–06720 Filed 4–4–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0521]

Agency Information Collection Activity: Compliance Inspection Report

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) or 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension, of a currently approved collection, and allow 60 days for public comment in response to the notice.

VA Forms 26–1820, 26–8497 and 26–8497a are used by Lenders to obtain specific information concerning a veteran's credit history in order to properly underwrite the veteran's loan. The data collected on the forms is used to ensure that applications for VA-guaranteed loans are underwritten in a reasonable and prudent manner.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 5, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0521'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104–13; 44 U.S.C. 3501–21.

Title: Compliance Inspection Report (VA Form 26–1820, VA Form 26–8497, VA Form 26–8497a).

OMB Control Number: 2900–0521.

Type of Review: Extension of an approved collection.

Abstract: Lenders must obtain specific information concerning a veteran's

credit history in order to properly underwrite the veteran's loan. VA loans may not be guaranteed unless the veteran is a satisfactory credit risk. The data collected on the following forms are used to ensure that applications for VA-guaranteed loans are underwritten in a reasonable and prudent manner.

a. VA Form 26–1820 is completed by lenders closing VA-guaranteed and insured loans under the automatic or prior approval procedures.

b. VA Form 26–8497 is used by lenders to verify a loan applicant's income and employment information when making guaranteed and insured loans. VA does not require the exclusive use of this form for verification purposes, any alternative verification document would be acceptable provided that all information requested on VA Form 26–8497 is provided.

c. Lenders making guaranteed and insured loans complete VA Form 26–8497a to verify the applicant's deposits in banks and other savings institutions.

Affected Public: Individuals or households.

Estimated Annual Burden:

VA Form 26–1820—150,000 hours.

VA From 26–8497—25,000 hours.

VA Form 26–8497a—12,500 hours.

Estimated Average Burden per Respondent:

VA Form 26–1820—15 minutes.

VA Form 26–8497—10 minutes.

VA Form 26–8497a—5 minutes.

Frequency of Response: One time.

Estimated Number of Respondents:

VA Form 26–1820—600,000.

VA Form 26–8497—150,000.

VA Form 26–8497a—150,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Enterprise Records Service, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–06687 Filed 4–4–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0379]

Agency Information Collection Activity: Time Record (Work-Study Program)

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

VA Form 22–8690 is used to verify the actual numbers of hours worked by a work-study claimant. Without this information, continued entitlement to the benefits for dependents could not be determined.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 5, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0379'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104–13; 44 U.S.C. 3501–21.

Title: Time Record (Work-Study Program) (VA Form 22–8690).

OMB Control Number: 2900–0379.

Type of Review: Revision of an approved collection.

Abstract: Training establishmentscomplete VA Form 22–8690 to report the number of work-study hours a claimant has completed. When a claimant elects to receive an advance payment, VA will advance payment for 50 hours, but will withhold benefits (to recoup the advance payment) until the claimant completes 50 hours of service. If the claimant elects not to receive an advance payment, benefits are payable when the claimant completes 50 hours of service. VA uses the data collected to ensure that the amount of benefits payable to a claimant who is pursuing work-study is correct.

Affected Public: Individuals or households.

Estimated Annual Burden: 6,275 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 75,306.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Enterprise Records Service, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–06688 Filed 4–4–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0706]

Agency Information Collection Activity Under OMB Review: Application for Reimbursement of National Exam Fee

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 5, 2017.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs,

Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0706'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov.*

Please refer to ''OMB Control No. 2900–0706.''

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–3521.

Title: Application for Reimbursement of National Exam Fee, VA Form 22–0810.

OMB Control Number: 2900–0706.

Type of Review: Revision of a currently approved collection.

Abstract: Service members, veterans, and eligible dependents applying for reimbursement of national exam fees will use this form to provide information necessary to process their claim.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 82 FR 2017–01750 on January 26, 2017.

Affected Public: Individuals or households.

Estimated Annual Burden: 53 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: One and one half times.

Estimated Number of Respondents: 210.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Enterprise Records Service, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–06689 Filed 4–4–17; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

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Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reclassification of the West Indian Manatee From Endangered to Threatened; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2015–0178; FXES11130900000–178–FF09E42000]

RIN 1018–AY84

Endangered and Threatened Wildlife and Plants; Reclassification of the West Indian Manatee From Endangered to Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), reclassify the West Indian manatee (*Trichechus manatus*) from endangered to threatened under the authority of the Endangered Species Act of 1973, as amended (Act). The endangered designation no longer correctly reflects the current status of the West Indian manatee. This action is based on the best available scientific and commercial information, which indicates that the West Indian manatee no longer meets the definition of endangered under the Act. When this rule becomes effective, the West Indian manatee, including its two subspecies, will remain protected as a threatened species under the Act and the existing critical habitat designation in Florida will remain in effect.

DATES: This rule is effective May 5, 2017.

ADDRESSES: This final rule, as well as comments and materials received in response to the proposed rule, are available on the Internet at *http://www.regulations.gov* at Docket No. FWS–R4–ES–2015–0178. Comments and materials we received, as well as supporting documentation used in preparation of this rule, are available for public inspection at *http://www.regulations.gov* and by appointment, during normal business hours at: U.S. Fish and Wildlife Service, North Florida Ecological Services Office, or Caribbean Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Jay Herrington, Field Supervisor, North Florida Ecological Services Office, by telephone at 904–731–3191, or by facsimile at 904–731–3045; or at the following address: 7915 Baymeadows Way, Suite 200, Jacksonville, FL 32256; Edwin Muñiz, Field Supervisor, Caribbean Ecological Services Field Office, by telephone at 787–851–7297, or by facsimile at 787–851–7441; or at the following address: Road 301, Km. 5.1, P.O. Box 491, Boquerón, PR 00622. If you use a telecommunications device for the deaf (TDD), please call the Federal Relay Service (FRS) at 800–877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why We Need To Publish a Rule

- In April 2007, we completed a 5-year status review, which included a recommendation to reclassify the West Indian manatee from endangered to threatened.
- In December 2012, we received a petition submitted by the Pacific Legal Foundation, on behalf of Save Crystal River, Inc., requesting that the West Indian manatee and subspecies thereof be reclassified from its current status as endangered to threatened, based primarily on the analysis and recommendation contained in our April 2007 5-year review.
- On July 2, 2014, we published a 90-day finding that the petition presented substantial information indicating that reclassifying the West Indian manatee may be warranted (79 FR 37706). On January 8, 2016, we published a proposed rule to reclassify the West Indian manatee as threatened, which also constituted our 12-month petition finding that the action requested is warranted (81 FR 1000).

The Basis for Our Action

- Based on our status review, threats analysis, and evaluation of conservation measures, we conclude that the West Indian manatee no longer meets the Act's definition of endangered and should be reclassified to threatened, that is, a species that is likely to become endangered within the foreseeable future throughout all or a significant portion of its range.
- Our review of the best scientific and commercial information available indicates that some threats to the manatee still remain while others have been reduced or no longer occur. Examples of remaining threats that will make this species likely to become endangered in the foreseeable future include habitat loss, degradation, and fragmentation; watercraft collisions; loss of winter warm-water habitat; and poaching.
- Recovery efforts to control these threats in range countries are under way in many areas but have not yet begun in others. Further implementation of recovery actions is needed to bring the West Indian manatee to full recovery by reducing or removing threats to the point where this species is no longer likely to become endangered in the foreseeable future throughout all or a significant portion of its range.

Previous Federal Actions

The Florida manatee (*Trichechus manatus latirostris*), a subspecies of the West Indian manatee (*Trichechus manatus*), was listed as endangered in 1967 (32 FR 4001) under the Endangered Species Preservation Act of 1966 (Pub. L. 89–669; 80 Stat. 926). After adoption of the Endangered Species Conservation Act of 1969 (Pub. L. 91–135; 83 Stat. 275), the listing was amended in 1970 to expand the Florida manatee listing to include the West Indian manatee throughout its range, including in the Caribbean Sea and northern South America. This amendment added the Antillean manatee (*Trichechus manatus manatus*) to the listing (35 FR 18319, December 2, 1970). Species listed under the Endangered Species Conservation Act, including the West Indian manatee, were subsequently grandfathered into the List of Endangered and Threatened Wildlife under the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), and the West Indian manatee remains listed as an endangered species under the Act. We originally issued a recovery plan for the West Indian manatee in 1980, which included both Florida and Antillean manatees. We completed a recovery plan for the Florida subspecies in 1989, revised it in 1996, and completed another in 2001 (USFWS 2001). In 1986, we completed a recovery plan for the Puerto Rico population of the Antillean manatee (USFWS 1986).

On January 8, 2016, we published in the **Federal Register** a combined 12-month finding on the petition to downlist the West Indian manatee and a proposed rule to reclassify the West Indian manatee as threatened (81 FR 1000). Please refer to the proposed rule for a detailed description of prior Federal actions concerning this species. On January 13, 2016 (81 FR 1597), we made a minor correction to this proposed regulation; the date closing the comment period was corrected to read April 7, 2016. The Service also contacted appropriate range countries, Federal and State agencies, scientific experts and organizations, tribes, and other interested parties and invited them to comment on the proposal. Between January 28, 2016, and February 9, 2016, we published legal notices in major newspapers in the West Indian manatee range including Texas, Louisiana, Mississippi, Alabama, Georgia, South Carolina, North Carolina, Virginia, and Puerto Rico and legal notices in 10 major newspapers in

Florida. We also held a public hearing on February 20, 2016, at the Buena Vista Palace Conference Center in Orlando, Florida.

Background

Please refer to the combined 12-month finding and proposed rule to reclassify the West Indian manatee (81 FR 1000, January 8, 2016) for more information on the species' distribution, taxonomy, description, lifespan, mating, and reproduction. We made no changes to these sections and do not include them in our final rule.

Taxonomy and Species Description

The West Indian manatee, *Trichechus manatus,* is one of three living species of the genus Trichechus (Rice 1998, p. 129). The West Indian manatee includes two recognized subspecies, the Antillean manatee, *Trichechus manatus manatus,* and the Florida manatee, *Trichechus manatus latirostris* (Rice 1998, p. 129). Each subspecies has distinctive morphological features and occurs in discrete areas with rare overlap between ranges (Hatt 1934, p. 538; Domning and Hayek 1986, p. 136; and Alvarez-Alemán *et al.* 2010, p. 148). Recent genetic studies substantiate the uniqueness of the Florida subspecies, as its genetic characteristics have been compared with other populations from the Antillean subspecies found in Puerto Rico and Belize (Hunter *et al.* 2010, p. 599; Hunter *et al.* 2012, p. 1631).

Population Size

Within the southeastern United States, Martin *et al.* (2015 entire) provide an abundance estimate for the Florida subspecies of 6,350 manatees (with a 95 percent CI (confidence interval) between 5,310 and 7,390). Outside the southeastern United States, available non-statistical population estimates are based on data of highly variable quality and should be considered only as crude approximations (Table 1). These estimates suggest that there may be as many as 6,782 Antillean manatees in the Greater Antilles, Mexico, Central America, and South America (Table 1). This information reflects the broad distribution of the species and suggests a relatively medium to large range-wide population estimate. A sum of all the available estimates totals 13,142 manatees for the species throughout its range; the sum of estimated minimum population sizes is 8,396 manatees (See Table 1; UNEP 2010, p. 11; Marsh *et al.* 2011, p. 385; Castelblanco-Martínez *et al.* 2012, p. 132; Self-Sullivan and Mignucci 2012, p. 40; Martin *et al.* 2015, entire). Total estimates for manatees outside the southeastern United States and Puerto Rico alone range between approximately 3,000 and 6,700 individuals, including adults, subadults, and calves, of which fewer than 2,500 are estimated to be reproductively mature animals (Self-Sullivan and Mignucci-Giannoni 2012, p. 40). Castelblanco-Martínez *et al.* (2012, p. 132) adapted the UNEP (2010, p. 11) numbers and used an estimated initial size of 6,700 individuals in their population viability analysis (PVA) model for the Antillean subspecies.

TABLE 1—RANGE COUNTRIES WHERE WEST INDIAN MANATEES ARE FOUND: TRENDS, NON-STATISTICAL POPULATION ESTIMATES, MINIMUM POPULATION SIZE, AND NATIONAL LISTING STATUS

[Abbreviations: U—Unknown; D—Declining; S—Stable; I—Increasing (adapted from UNEP 2010, p. 11 and Castelblanco-Martínez *et al.* 2012, p. 132, Martin *et al.* 2015, p. 44, unless otherwise cited).]

Country	Trend [1]	Non-statistical population estimate [2]	Minimum population size	National listing status [3]
Greater Antilles (1,382)				
1A.[4] U.S. (Puerto Rico)	S	[5] 532 (mean)	342	Endangered (PRDNER 2004).
2. Cuba	U/D	500	Unknown	Endangered (Álvarez-Alemán 2012).
3. Haiti	U	100	8	No Information
4. Dominican Republic	D	200	30	Critically Endangered (MMARNRD 2011).
5. Jamaica	U/D	50	<50	No Information.
Mexico, Central America (3,600)				
6. Mexico	U	1,500	1,000	Endangered.
7. Belize	U/D	1,000	700	Endangered.
8. Guatemala	U	150	53 ± 44	Critically Endangered (CONAP 2009).
9. Honduras	S/D	100	11	No Information.
10. Costa Rica	D	200	31	Endangered.
11. Panama	U	150	10	No Information.
12. Nicaragua	D	500	71	No Information.
South America (1,800)				
13. Colombia	U/D	500	100	Critically Endangered (Rodríguez-Mahecha *et al.* 2006).
14. Venezuela	D	200	200	Critically Endangered (Ojasti and Lacabana 2008).
15. Suriname	D	100	100	No Information.
16. French Guiana	S/D	100	100	No Information.
17. Guyana	D	100	100	No Information.
18. Trinidad and Tobago	D	100	25	Endangered (MCT 2002).
19. Brazil	S/D	700	155	Critically Endangered (Barbosa *et al.* 2008).
North America (6,360)				
20. The Bahamas	I	10	Unknown	No Information.
21B.[4] U.S. (Southeast)	S/I	6,350	5,310	Endangered (FAC 68A–27.0031).

TABLE 1—RANGE COUNTRIES WHERE WEST INDIAN MANATEES ARE FOUND: TRENDS, NON-STATISTICAL POPULATION ESTIMATES, MINIMUM POPULATION SIZE, AND NATIONAL LISTING STATUS—Continued

[Abbreviations: U—Unknown; D—Declining; S—Stable; I—Increasing (adapted from UNEP 2010, p. 11 and Castelblanco-Martínez *et al.* 2012, p. 132, Martin *et al.* 2015, p. 44, unless otherwise cited).]

Country	Trend [1]	Non-statistical population estimate [2]	Minimum population size	National listing status [3]
Total Estimated Population			8,396–13,142	

[1] Trends and estimates described in Table 1 for manatee populations outside the United States are, in large part, based on the personal opinions of local experts and are not based on quantified analyses of trends in country population counts or demographics. Such data from these countries are limited or absent, making most of these assessments conjectural (UNEP 2010, p. xiv).
[2] Except as noted.
[3] Range country status definitions vary by country.
[4] Note that Locations 1A and 21B refer to manatee populations in the United States (in Puerto Rico and the southeastern United States, respectively).
[5] Based on adjusted aerial survey counts (Pollock *et al.* 2013, p. 8).

The Martin *et al.* (2015) study referenced above is the first quantified estimate of abundance for the Florida manatee in the southeastern United States. This estimate relied upon innovative survey techniques and multiple sources of information to estimate a Florida manatee population of 6,350 animals (Martin *et al.* 2015, p. 44). In Puerto Rico, the Service also updated aerial survey methods to account for detection probability, which provides an improved population estimate (Pollock *et al.* 2013, entire). From 2010 to 2014, a total of six island-wide aerial surveys have been completed with this new method (Atkins 2010–2014). These have resulted in the most robust counts available for the population, with an average direct minimum population count of 149 individuals (standard deviation (SD) 31). Calf numbers have also been documented with an average minimum direct calf count of 14 (SD 5) or approximately 10 percent of the direct minimum population count. A record high of 23 calves was counted in the December 2013 survey. The October 2010 survey count analysis resulted in an adjusted mean estimated population size of 532 individuals, with a 95 percent equal area confidence interval (CI) of 342–802 manatees (Pollock *et al.* 2013, p. 8).

In Florida, to count numbers of manatees, FWC conducts a series of statewide aerial and ground surveys of warm-water sites known to be visited by manatees during cold-weather extremes. These surveys are conducted from one to three times each winter, depending on weather conditions (FWC FWRI Manatee aerial surveys, 2016, unpubl. data). While the number of manatees detected during these surveys has increased over the years, in and of themselves these surveys are not considered to be reliable indicators of population trends, given concerns about detection probabilities. However, it is likely that a significant amount of the increase does reflect an actual increase in population size when this count is considered in the context of other positive demographic indicators, including the recently updated growth and survival rates (Runge *et al.* 2015, p. 19).

In February 2015, researchers counted 6,063 manatees during a statewide survey, and researchers in February 2016 counted 6,250 manatees (FWC FWRI Manatee aerial surveys 2016, unpubl. data).

Population Trends

In 2008, the International Union for the Conservation of Nature (IUCN) identified the West Indian manatee as a ''Vulnerable'' species throughout its range based on an estimate of less than 10,000 mature individuals (Deutsch *et al.* 2008, *http://www.iucnredlist.org/details/22103/0*). The population was expected to decline at a rate of 10 percent over the course of three generations (*i.e.,* 60 years; 1 generation = circa 20 years) due to habitat loss and other anthropogenic factors (Deutsch *et al.* 2008, online). However, each of the subspecies (Antillean and Florida) by themselves was considered to be endangered and declining due to a variety of threats identified in the IUCN classification criteria (Deutsch *et al.* 2008, online). As we have noted above, our estimate of the total West Indian manatee population currently ranges between 8,396 and 13,142 (Table 1).

To the extent that they can be measured with the best available data, the West Indian manatee population trend and status vary regionally (Table 1). In the southeastern United States, the manatee population has grown, based on updated adult survival rate estimates and estimated growth rates (Runge *et al.* 2015, p. 19). The Antillean manatee population in Puerto Rico is believed to be stable since our 2007 status review (USFWS 2007). Historical and anecdotal accounts outside the southeastern United States and Puerto Rico suggest that manatees were once more common, leading scientists to hypothesize that significant declines have occurred (Lefebvre *et al.* 2001, p. 425; UNEP 2010, p. 11; Self-Sullivan and Mignucci-Giannoni 2012, p. 37). In areas where populations may be declining, the magnitude of decline is difficult to assess, given the qualitative nature of these accounts (see footnote Table 1). It is not known if these observations represent an actual decline or merely reflect differences in expert opinion over time.

In the Castelblanco-Martínez *et al.* (2012, pp. 129–143) PVA model for the metapopulation of the Antillean manatee the authors divided the metapopulation into six subpopulations identified by geographic features, local genetic structure, ranging behavior, and habitat use (Greater Antilles, Gulf of Mexico, Mesoamerica, Colombia, Venezuela, Brazil; refer to Figure 1 and Table 1 in Castelblanco-Martínez et al. 2012). Using an initial metapopulation size of 6,700 Antillean manatees, with low human pressure and a relatively low frequency of stochastic events, their baseline PVA model describes a metapopulation with positive growth. The authors explain that the model is limited due to a lack of certainty with regard to the estimated size of the population; it does not take into account trends in local populations, and it assumes that all threats have an equal effect on the different subpopulations.

As stated in Castelblanco-Martínez *et al.* (2012, p. 138), ''human impacts and habitat fragmentation were the main factors that drastically caused changes in the simulated extinction process of the population.'' For example, some of the combined human-related mortality and habitat fragmentation model runs

reached extinction within 100 years (Fig. 5 and Table 7 in Castelblanco-Martínez *et al.* 2012, pp. 139–140). The four worst predictions presented a mean time to extinction between 41.5 and 104 years, by assuming a human-related mortality of 5 percent or higher and in combination with values of transient survival probabilities of between 10 percent, 30 percent, and 50 percent (habitat fragmentation). Besides these four worst predictions, the other predictions' mean time to extinction are all above 200 years (from 208.9 to >500), thus higher than what is considered the foreseeable future (50 years; see Summary of Factors Affecting the Species section) for the West Indian manatee.

These four worst model predictions are currently considered unlikely for the Antillean manatee metapopulations. For example, Castelblanco-Martínez *et al.* (2012, p. 135) discuss their assumption of using a 1 percent human-related mortality for their base model by citing available information on anthropogenic causes of mortality for the Antillean manatee (Castelblanco-Martínez *et al.* 2012, p. 135). These anthropogenic causes include hunting, entanglement, and collisions with boats, and in general are considered relatively uncommon according to the few reports available considering the broad range of the Antillean manatee metapopulation (Castelblanco-Martínez *et al.* 2012, p. 135). Thus a 5 percent or higher human-related mortality in these four worst predictions is currently considered unlikely. They also note (Castelblanco-Martínez *et al.* 2012, p. 141) that the resulting baseline model growth rate is reasonable because mortality is currently considered to be low when compared to the Florida subspecies, which can withstand massive mortalities associated with cold stress and red tide episodes.

In addition, low survival probabilities of transient manatees (habitat fragmentation) of 50 percent or lower are also considered unlikely since migration rates were assumed low, and given that manatees have a resilient immune system and seem resistant to diseases and traumatic injuries as explained by Castelblanco-Martínez *et al.* (2012, pp. 132–133). We recognize that additional information is needed to better assess how human-related and habitat threats affect actual and model growth rates.

In the southeastern United States, new population growth rates for Florida's Atlantic Coast, Upper St. Johns River, Northwest, and Southwest Regions describe growth in each region through winter seasons 2011–2012, 2010–2011, 2009–2010, and 2008–2009, respectively (Langtimm presentation, 2016). Regional adult survival rate estimates (see Table 2) were also updated through the same periods and are higher and more precise for all regions since the last estimates were provided (Langtimm presentation, 2016; Runge *et al.* 2015, p. 7; USFWS 2007, p. 65). The updates capture some but not all of the recent die-off events (severe cold events of 2009–2010 and 2010–2011, and the 2012–present Indian River Lagoon (IRL) die-off event). These rates include data collected through 2014–2015. However, rates for periods beyond those identified in Table 2 cannot be calculated because of an end of time series bias inherent in the analyses.

TABLE 2—UPDATED FLORIDA MANATEE ADULT SURVIVAL RATES

[Langtimm, presentation, 2016.]

Region	Mean	Standard error	Time period
Northwest	0.978	.003	1982–2009
Southwest	0.978	.004	1997–2012
Atlantic Coast	0.972	.004	1987–2010
Upper St. Johns River	0.979	.004	1987–2010

A USGS-led status and threats analysis for the Florida manatee was updated in 2016 (Runge presentation, 2016). This effort considers the demographic effects of the major threats to Florida manatees and evaluates how those demographic effects influence the risk of extinction using the manatee Core Biological Model. Although the adult survival rate is less than one in all regions, growth rates have been demonstrably greater than one (positive growth) over the recent past (1983–2007) (Langtimm presentation, 2016).

The analysis forecasts the status of the manatee population under different threat scenarios using the Manatee Core Biological Model. Data from the Manatee Carcass Salvage Program (FWC FWRI Manatee Carcass Salvage Program 2016, unpubl. data) were used to estimate fractions of mortality due to each of six known threats: Watercraft, water control structures, marine debris, cold, red tide, and others (Runge presentation, 2016).

The model expressed the contribution of each threat as it affects manatee persistence, by removing them, one at a time, and comparing the results to the ''status quo'' scenario. The ''status quo'' represents the population status in the continued presence of all of the threats, including the threat of the potential loss of warm water in the future due to power plant closures and the loss of springs and/or reduction in spring flows.

Under the status quo scenario, the statewide manatee population is expected to increase slowly, nearly doubling over 50 years, and then stabilize as the population reaches statewide carrying capacity. Under this scenario, the model predicts that it is unlikely (< 2.5 percent chance) that the statewide population will fall below 4,000 total individuals over the next 100 years, assuming current threats remain constant indefinitely (Runge *et al.* 2015, p. 13).

Recovery

Section 4(f) of the Act directs us to develop and implement recovery plans for the conservation and survival of listed species, unless we find that such a plan will not promote conservation of the species. Although the West Indian manatee is listed throughout its range, Service recovery planning efforts for the West Indian manatee focused mostly on those portions of the species' range within U.S. jurisdiction. We published an initial recovery plan for the West Indian manatee in 1980 (USFWS 1980) and subsequently published recovery plans at the subspecies level for manatees found within the United States. At present, approved plans include the Recovery Plan for the Puerto Rican Population of the Antillean Manatee (USFWS 1986); the Florida Manatee Recovery Plan, Third Revision (USFWS 2001); and the South Florida Multi-Species Recovery Plan (USFWS 1999).

Section 4(f) of the Act directs that, to the maximum extent practicable, we incorporate into each recovery plan: (1) Site-specific management actions that may be necessary to achieve the plan's goals for conservation and survival of the species; (2) objective, measurable criteria, which when met would result in a determination, in accordance with the provisions of section 4 of the Act, that the species be removed from the list; and (3) estimates of the time required and cost to carry out the plan.

Revisions to the Lists of Endangered and Threatened Wildlife and Plants (List) (adding, removing, or reclassifying a species) must reflect determinations made in accordance with section 4(a)(1) and 4(b). Section 4(a)(1) requires that the Secretary determine whether a species is threatened or endangered (or not) because of one or more of five threat factors. Therefore, recovery criteria must indicate when a species is no longer threatened or endangered because of any of these five factors. In other words, objective, measurable criteria contained in recovery plans (recovery criteria) must indicate when an analysis of the five factors under section 4(a)(1) would result in a determination that a species is no longer an endangered or threatened species. Section 4(b) requires that the determination made under section 4(a)(1) be based on the best available science.

Thus, while recovery plans are intended to provide guidance to the Service, States, and other partners on methods of minimizing threats to listed species and on criteria that may be used to determine when recovery is achieved, they are not regulatory documents and cannot substitute for the determinations and promulgation of regulations required under section 4(a)(1). Determinations to remove from or reclassify a species on the List made under section 4(a)(1) must be based on the best scientific and commercial data available at the time of the determination, regardless of whether that information differs from the recovery plan.

In the course of implementing conservation actions for a species, new information is often gained that requires recovery efforts to be modified accordingly. There are many paths to accomplishing recovery of a species, and recovery may be achieved without all criteria being fully met. For example, one or more criteria may have been exceeded while other criteria may not have been accomplished, yet the Service may judge that, overall, the threats have been minimized sufficiently, and the species is robust enough, to reclassify the species from endangered to threatened or perhaps even delist the species. In other cases, recovery opportunities may have been recognized that were not known at the time the recovery plan was finalized. These opportunities may be used instead of methods identified in the recovery plan.

Likewise, information on the species may be available that was not known at the time the recovery plan was finalized. The new information may change the extent that criteria need to be met for recognizing recovery of the species. Overall, recovery of species is a dynamic process requiring adaptive management, planning, implementing, and evaluating the degree of recovery of a species that may, or may not, fully follow the guidance provided in a recovery plan.

The following discussion provides a review of recovery planning and implementation for the West Indian manatee, as well as an analysis of the recovery criteria and goals as they relate to evaluating the status of the species.

Recovery Actions

Recovery and conservation actions for the West Indian manatee are described in the ''UNEP Caribbean Environment[al] Program's Regional Management Plan for the West Indian Manatee'' (UNEP 2010, entire) and in national conservation plans for countries outside the United States. Within the United States, the Service's Recovery Plan for the Puerto Rico Population of the West Indian (Antillean) Manatee (USFWS 1986, entire), the South Florida Multi-Species Recovery Plan (USFWS 1999, entire), and the Florida Manatee Recovery Plan (USFWS 2001, entire) identify recovery and conservation actions for the species. Actions common to all plans include minimizing manatee mortality and injury, protecting manatee habitats, and monitoring manatee populations and habitat.

UNEP Caribbean Environment[al] Program's Regional Management Plan for the West Indian Manatee, National Conservation Plans (Outside the United States)

The UNEP plan, published in 2010, identifies short- and long-term conservation and research measures that should be implemented to conserve the West Indian manatee. This plan also includes an overview of West Indian manatees within their range countries, including descriptions of regional and national conservation measures and research programs that have been implemented. Given the general lack of information about manatees in most range countries, the plan recommends that needed research and the development of common methodologies be prioritized in concert with coordinated manatee and manatee habitat protection efforts (UNEP 2010, entire).

Within the species' range, foundations for coordinated conservation and research activities are developing, and a number of governments have designated manatee protection areas and have developed or are developing conservation plans (UNEP 2010, p. xiv). National legislation exists for manatees in all range countries, and many countries have ratified their participation in international conventions and protocols that protect manatees and their habitat (UNEP 2010, p. xv). At *www.regulations.gov,* see Supplemental Documents 1 and 3 in Docket No. FWS–R4–ES–2015–0178. Belize, Colombia, Costa Rica, Guatemala, Mexico, the United States, Puerto Rico, and Trinidad have developed country-specific manatee recovery plans (UNEP 2010, p. 92).

Efforts to conserve manatees outside the United States vary significantly from country to country. Some countries, including but not limited to Mexico, Belize, Brazil, and Cuba, are engaged in efforts to assess current status and distribution of manatees. Many countries, including Belize and Brazil, provide protections for manatees and their habitat. For example, the manatee in Belize is listed as endangered under Belize's Wildlife Protection Act of 1981. Belize protects manatees from overexploitation, and its recovery plan implements recovery actions similar to those identified in the Service's Florida and Puerto Rico recovery plans. Efforts to protect manatees include education and outreach efforts, and countries are promoting cooperation and information exchanges through venues such as the recent Cartagena Convention meetings (UNEP 2014, entire). A successful cooperative initiative identified at the meetings includes the implementation of manatee bycatch surveys in the Dominican Republic, Belize, Colombia, and Mexico (Kiszka 2014, entire). We are encouraged by the progress that is being made in several portions of the Antillean manatee's range in protecting this mammal and the growing enthusiasm behind implementing recovery to better protect this important species. In the future, we would like to reach out and coordinate with these countries with their efforts to further conserve manatees.

Recovery Plan for the Puerto Rico Population of the West Indian (Antillean) Manatee

We approved the Recovery Plan for the Puerto Rico population of the West Indian (Antillean) manatee on December 24, 1986 (USFWS 1986, entire). Although this plan is considered out of date (USFWS 2007, p. 26), we present the progress we have made under the identified tasks. The 1986 plan included three major objectives: (1) To identify, assess, and reduce human-related mortalities, especially those related to gill-net entanglement; (2) to identify and minimize alteration, degradation, and destruction of important manatee habitats; and (3) to develop criteria and biological information necessary to determine whether and when to reclassify from endangered to threatened the Puerto Rico population (USFWS 1986, p. 12). The Recovery Plan also includes a step-down outline that identifies two primary recovery actions for: (1) Population management and (2) habitat protection. Since the release of the 1986 Recovery Plan for the Puerto Rico population of the West Indian (Antillean) manatee, initiated recovery actions have provided substantial new knowledge about the species' ecology and threats. Some of these efforts apply to multiple tasks and are helping to update conservation information and tools that are applied towards adaptive management and education. Here we report on the current status of these actions.

Recovery Task (1): Population management. Recovery actions under this task include: Reduce human-caused mortality; determine manatee movement patterns and trends in abundance and distribution; assess contaminant concentrations in manatees; determine quantitative recovery criteria; and develop manatee protection plans for areas of specific importance.

Recovery Task (2): Habitat protection. Recovery actions under this task include: Radio-tag manatees to determine habitat utilization; determine and map distribution of seagrass beds and sources of fresh water; and monitor important habitat components and ensure protection.

A carcass salvage program was first implemented in the late 1970s and continues today. Mignucci-Giannoni *et al.* (2000, p. 189) provided an analysis of stranding data and identified sources of human-caused mortality. This summarization of data points indicates a shift in the nature of threats since the release of the 1986 Recovery Plan, which listed poaching, direct capture, and entanglement as the most significant threats to manatees. Watercraft collision is now considered the greatest threat to manatees in Puerto Rican waters (Mignucci *et al.* 2000, p. 189; Drew *et al.* 2012, p. 26). Currently, carcass salvage efforts are led by the Puerto Rico Department of Natural and Environmental Resources (PRDNER) with support from the Puerto Rico Manatee Conservation Center (PRMCC) (the former Caribbean Stranding Network or CSN) and the Puerto Rico Zoo. There has not been a record of poaching since 1995 as a result of increased public awareness of the protected status of the manatee. The successful rehabilitation and release of the captive manatee ''Moises'' in 1994, a manatee calf stranded after the mother had been killed by poachers, served to incite a change of cultural values and increase awareness about threats to manatees (Marsh and Lefebvre 1994, p. 157).

Documented entanglement in fishing nets rarely occurs. However, in 2014, three adult manatees were entangled in large fishing nets; one of them was an adult female that died (PRDNER 2015, unpubl. data). Significant exposure was given to this case through the local and social media. Current PRDNER fishing regulations still allow the use of beach seine nets with certain prohibitions that need to be carefully monitored. Fisheries-related entanglements and debris ingestion are rarely documented but may occur and cause take of manatees (take includes harassment, hunting, capturing, killing, or attempting to harass, hunt, capture, or kill). In August 2014 and September 2016, an adult female was confirmed to have both flippers severely entangled in monofilament line. Attempts to capture the female manatee from the shore were unsuccessful. Agencies, community groups, and nongovernmental organizations in Puerto Rico consistently educate the public about improper waste disposal that can affect manatees.

In 2012, the Service completed a cooperative agreement with researchers from North Carolina State University (NCSU) to identify potential Manatee Protection Areas (MPAs) and address some of the core recommendations made by the most recent West Indian manatee 5-year review, such as the establishment of MPAs (USFWS 2007, p. 37). This collaboration led to the identification of several potential MPAs and serves to update the body of knowledge pertaining to key ecological resources used by manatees (*i.e.,* seagrass, shelter, freshwater) and the current status of threats to the Antillean manatee (Drew *et al.* 2012, pp. 1, 33–34). MPAs serve to prevent the take of one or more manatees (USFWS 1979). The MPA selection criteria considered key manatee resources (*i.e.,* seagrass, shelter, freshwater), manatee aerial surveys, and areas where take can be minimized. After expert elicitation and a thorough literature review, available data were spatially analyzed and described to reflect manatee use and habitat preference.

Federal MPAs have not been designated in Puerto Rico, and the PRDNER does not have a specific manatee area regulation like the State of Florida's Manatee Sanctuary Act of 1978 (FMSA), which allows for management and enforcement of boat speed restrictions and operations in areas where manatees are concentrated (F.A.C. 2016). Still, the PRDNER has the authority to establish boat speed regulatory areas marked with buoys wherever deemed necessary. For example, in 2014, the USFWS, PRDNER, and Reefscaping, Inc. finalized the installation of 100 manatee speed regulatory buoys throughout known important manatee use areas, and the PRDNER has a plan to install more buoys. In addition, the Navigation and Aquatic Safety Law for the Commonwealth of Puerto Rico (Law 430) was implemented in 2000 (PRDNER 2000). This law restricts boat speeds to 5 miles per hour within 150 feet (45 meters) from the coastline unless otherwise posted. However, the effectiveness of this law and State manatee speed regulatory buoys have not been appropriately assessed, and enforcement is limited (see Factor D).

In Puerto Rico, island-wide manatee aerial surveys have been conducted since the late 1970s. These aerial surveys provide the basis for island-wide distribution patterns and help to determine minimum population direct counts in some areas or throughout the island. Not all surveys were equal in terms of the area covered and time of year in which they were done. These direct counts identify a number of animals observed at the time of the survey and suggest that there are at least a specified number of manatees in the population. The Service recognizes that these counts do not accurately represent the total number of manatees in the population. Weather, other environmental factors (*e.g.,* water clarity), observer bias, and aerial survey space restrictions influence count conditions and affect detection probability and final count, thus likely the true number of individuals is underestimated. Furthermore, as in the Florida manatee aerial surveys, survey methods preclude any analysis of

precision and variability in the counts, and do not allow for the estimation of the apparent detection probability. In spite of the high variability between and within surveys, the data can be used to specify a minimum population direct count within a time period (one island-wide survey).

The most consistent surveys were conducted between 1984 and 2002 (USFWS CESFO Manatee Aerial Surveys 2015, unpubl. data). However, methods used provided only a direct count and did not allow for a more reliable estimate of population size with detection probabilities (Pollock *et al.,* 2013, p. 2). Hence, estimates of population size are likely biased low, and inferences from trend analyses are unreliable. The Service again partnered with researchers from NCSU to conduct a review of aerial survey protocols and implement a sampling protocol that allows the estimation of a detection probability (Pollock *et al.,* 2013, pp. 2–4). In 2010, the Service partnered with Atkins (private consultant) to implement the new sampling protocol in order to provide more reliable population estimates. As explained in the Population Size section, a total of six island-wide aerial surveys were flown between 2010 and 2014 using the new methods (Atkins 2010–2014). We now have the most robust counts for Puerto Rico's Antillean manatee population. (Please refer to the Population Size section for additional information.)

Recovery actions are also implemented during technical assistance and project reviews. Any action or project with a Federal nexus (*e.g.,* Federal funds, permits, or actions) requires a consultation with the Service under section 7 of the Act. During the consultation process, the Service identifies conservation measures to avoid and minimize possible effects of proposed actions or projects. We review numerous projects each year pertaining to the manatee, such as dredging, dock and marina construction, coastal development, marine events (*i.e.,* high-speed boat races), and underwater and beach unexploded ordnance, among others. The Service has developed Antillean manatee conservation measures guidelines specific to Puerto Rico. For example, we have worked with the U.S. Coast Guard to develop and implement standard permit conditions for boat races, such as observer protocols.

South Florida Multi-Species Recovery Plan, West Indian Manatee

The South Florida Multi-Species Recovery Plan, West Indian Manatee element, was adopted on August 18, 1999, by the Service (USFWS 1999, entire). This ecosystem-based recovery plan is intended to recover listed species and to restore and maintain the biodiversity of native plants and animals in South Florida. The plan is not intended to replace existing recovery plans but rather to enhance recovery efforts (USFWS 1999, p. 3). Inasmuch as manatees are a component of South Florida ecosystems, this plan included species information and recovery tasks from the then-current Florida manatee recovery plan, which was the Service's 1996 Florida Manatee Recovery Plan (USFWS 1996, entire). Because the 1996 Florida Manatee Recovery Plan was revised in 2001, the South Florida Multi-Species Recovery Plan, West Indian Manatee element became obsolete. However, the 2001 Florida Manatee Recovery Plan includes tasks that address manatee conservation throughout this subspecies' range, including in South Florida.

Manatee recovery activities addressed in the south Florida region include a Comprehensive Everglades Restoration Plan (CERP) Task Force that addresses CERP tasks related to manatee conservation, an Interagency Task Force for Water Control Structures that minimizes manatee deaths associated with water control structures, and efforts to protect the manatees' south Florida winter habitat (FWC 2007, pp. 63, 196).

The CERP Task Force developed guidelines for manatee protection during CERP-related construction activities. The guidelines address culvert and water control structure installation, potential thermal effects of Aquifer Storage and Recovery wells, potential manatee entrapment in canal networks, and in-water construction effects. The Task Force evaluated proposed changes to existing canal systems and the construction of new structures planned for CERP implementation and recommended measures to minimize effects on manatees. The measures have been implemented and are in effect (FWC 2007, p. 196).

Water control structures are mostly found in south Florida and are a predominant means for controlling flooding in the region. Water control structures primarily include flood gates and navigation locks that allow vessel passage through dams and impoundments, such as those associated with Lake Okeechobee. Manatees travel through these structures and are occasionally killed in gate crushings and impingements. Manatee protection devices have been installed on most structures known to have killed manatees, and the number of deaths has been reduced (FWC 2007, p. 63). For the period 1998–2008, the average annual number of structure-related deaths was 6.5 deaths. This number was reduced to 4.2 deaths per year from 2009–2014 (FWC 2007, pp. 194–195; FWC FWRI Manatee Carcass Salvage Database 2016, unpubl. data).

Important warm-water wintering sites for manatees in south Florida include power plant discharges, springs, and passive warm-water sites (sites characterized by warm-water inversions and other features). State and Federal rules have been adopted for all power plant discharges in south Florida that limit public access during the winter (FWC 2007, pp. 235–238; USFWS 2007, pp. 71–79). Coincidentally, a majority of the significant power plants used by wintering manatees have been repowered and have projected lifespans of about 40 years (Laist *et al.,* 2013, p. 10). The loss of a passive warm-water site due to restoration activities, the Port of the Islands warm-water basin, is being addressed through the construction of an alternate warm-water site downstream of the original site (Dryden 2015, pers. comm.).

Florida Manatee Recovery Plan

We published the current Florida Manatee Recovery Plan on October 30, 2001 (USFWS 2001). This recovery plan includes four principal objectives: (1) Minimize causes of manatee disturbance, harassment, injury, and mortality; (2) determine and monitor the status of manatee populations; (3) protect, identify, evaluate, and monitor manatee habitats; and (4) facilitate manatee recovery through public awareness and education. To help achieve these objectives, the plan identifies 118 recovery implementation tasks. Important tasks include those that address the reduction of watercraft collisions and the loss of warm-water habitat.

Recovery Objective 1. Minimize causes of manatee disturbance, harassment, injury, and mortality. Tasks identified under this objective include: (1) Conducting reviews of permitted activities; (2) minimizing collisions between manatees and watercraft; (3) enforcing manatee protection regulations; (4) assessing and minimizing mortality caused by large vessels; (5) eliminating water control structure deaths; (6) minimizing fisheries and marine debris entanglements; (7) rescuing and rehabilitating distressed manatees; and (8) implementing strategies to minimize manatee harassment.

Task 1. Conduct reviews of permitted activities. The Service conducts reviews of coastal construction permit applications to minimize impacts to manatees and their habitat; reviews high-speed marine event permit applications to minimize the effect of concentrated, high-speed watercraft events on manatees; and reviews National Pollution Elimination Discharge Elimination System (NPDES) permits to ensure that existing, significant discharges do not adversely affect manatees and ensure that no new attractant discharges are created.

The State of Florida requires counties to develop manatee protection plans (MPPs). These are county-wide plans for the development of boat facilities (docks, piers, dry-storage areas, marinas, and boat ramps) that specify preferred locations for boat facility development based on an evaluation of natural resources, manatee protection needs, and recreation and economic demands. MPPs are reviewed by FWC and the Service and, when deemed adequate, are used to evaluate boat access projects. When proposed projects are consistent with MPPs, permitting agencies authorize the construction of facilities in waters used by manatees. Currently, all of the original 13 counties required to have MPPs have plans, as well as Clay, Levy, and Flagler counties. Charlotte County is also preparing an MPP.

The Service developed programmatic consultation procedures and permit conditions for new and expanding watercraft facilities (*e.g.,* docks, boat ramps, and marinas) as well as for dredging and other in-water activities through an effect determination key with the U.S. Army Corps of Engineers and State of Florida (the ''Manatee Key'') (recently revised in 2013). The Manatee Key ensures that watercraft facility locations are consistent with MPP boat facility siting criteria and are built consistent with MPP construction conditions. The Service concluded that these procedures constitute appropriate and responsible steps to avoid and minimize adverse effects to the species and contribute to recovery of the species.

The Service has worked with the U.S. Coast Guard and State agencies to develop and implement standard permit conditions for high-speed marine event permits. These conditions require that events take place at locations and times when few manatees can be found at event locations and require event observer programs. Observer programs place observers in locations in and around event sites; these observers watch for manatees and shut events down when manatees enter event sites.

The Florida Department of Environmental Protection (FDEP) issues and renews NPDES permits for power plants, desalination plants, wastewater treatment plants, and other dischargers that affect manatees. The FWC, the Service, and others review these actions. These reviews ensure that discharges identified as beneficial to manatees continue to operate in a way that does not adversely affect manatees and seek to modify or eliminate those discharges that adversely affect manatees. In particular, these reviews prevent the creation of new sources of warm water and drinking water, known manatee attractants.

Task 2. Minimize collisions between manatees and watercraft. See discussion of watercraft collisions under Factor E, below. Ongoing efforts to minimize collisions between manatees and watercraft include the adoption of manatee protection areas that require boat operators to slow down or avoid sensitive manatee use areas. By requiring boats to slow down, manatees are better able to evade oncoming boats and boat operators are better able to see manatees and prevent collisions. Protected areas minimize the take of manatees by harassment in manatee wintering areas, resting areas, feeding areas, travel corridors, and other important manatee use sites. Manatee protection areas have been adopted in 26 Florida counties by the State of Florida, local communities, and the Service. Manatee protection areas were first adopted in the late 1970s, and additional areas continue to be adopted, as needed. For example, FWC recently adopted new protection areas in western Pinellas County (68C–22.016).

Task 3. Enforce manatee protection regulations. Service and State efforts to reduce the number of watercraft collisions with manatees rely on enforced, well-defined, and designated MPAs. Integral to these efforts are an adequate number of law enforcement officers to patrol and enforce these areas. Federal, State, and local law enforcement officers enforce these measures; Federal officers can enforce State regulations, and State officers can enforce Federal regulations. Officers can only enforce areas that are properly marked by well-maintained signs and buoys. Maintenance of these markers requires significant, continuing funding to ensure the presence of enforceable protection areas.

It is difficult to ascertain the adequacy of enforcement efforts. Data concerning dedicated officer hours on the water and numbers of citations written are confounding. For example, many dedicated officer hours on the water address diverse missions, and it is not possible to identify how many of these hours are devoted to manatee enforcement and how many hours are dedicated to other missions. Boater compliance assessments provide another measure to assess adequacy. Boater compliance varies by waterway, with some waterways experiencing 85 percent compliance rates and others as little as 14 percent (Gorzelany 2013, p. 63). Average boater compliance throughout Florida is 54 percent (Shapiro 2001, p. iii). An enforcement presence generally ensures a higher compliance rate (Gorzelany 2013, p. 34).

Task 4. Eliminate water control structure deaths. As discussed below, entrapment and crushing in water control structures was first recognized as a threat to manatees in the 1970s (Odell and Reynolds 1979, entire), and measures were immediately implemented to address manatee mortality. While initial measures were mostly ineffective, recent advances in protection/detection technology have nearly eliminated this threat to Florida manatees. In 2014, the 5-year average for manatee deaths at structures and locks was 4.2 manatee deaths per year as compared to 6.5 manatee deaths per year during the preceding 20 years (FWC FWRI Manatee Carcass Salvage Database, 2016, unpubl. data).

Task 5. Minimize fisheries and marine debris entanglements. Fishing gear, including both gear in use and discarded gear (*i.e.,* crab traps and monofilament fishing line), are a continuing problem for manatees. To reduce this threat, a manatee rescue program disentangles manatees, derelict-crab-trap removal programs and monofilament recycling programs remove gear from the water, and extensive education and outreach efforts increase awareness and promote sound gear disposal activities. See Factor E for additional information. Because of continued and ongoing fishing into the foreseeable future, it is unlikely that this threat will be eliminated.

Task 6. Rescue and rehabilitate distressed manatees. Distressed manatees are rescued throughout the southeastern United States. Rescuers include the State of Florida, other range States, and numerous private organizations. Each year these rescuers assist dozens of manatees that present with a variety of stresses. Significant causes of distress include watercraft collisions, fishing gear entanglements, calf abandonment, and exposure to cold and red tide brevetoxins. Many animals are treated and released in the field, and

others with significant needs are taken to one of three critical care facilities for medical treatment. A majority of manatees rescued through this program are successfully released back into the wild (USFWS Captive Manatee Database, 2016, unpubl. data).

Task 7. Implement strategies to minimize manatee harassment. See discussion of harassment under Factor B, below. Federal and State regulations prohibiting harm and harassment (including provisioning) are in effect and enforced (see Supplemental Document 2 in Docket No. FWS–R4–ES–2015–0178). Extensive outreach efforts encourage proper viewing practices and include the efforts of the Service, tour guides, and others and include various outreach materials. In areas with large aggregations of manatees, the Service and FWC have designated manatee sanctuaries and no-entry areas where waterborne activities known to take manatees are prohibited. When commercial manatee viewing activities occur on National Wildlife Refuges, businesses are required to obtain permits that restrict their activities to prevent harassment from occurring.

Recovery Objective 2. Determine and monitor the status of manatee populations. Tasks identified under this objective include: (1) Conducting status reviews; (2) determining life-history parameters, population structure, distribution patterns, and population trends; (3) evaluating and monitoring causes of mortality and injury; and (4) defining factors that affect health, well-being, physiology, and ecology. Research projects that support this objective include aerial surveys, a carcass salvage program, a photo-identification program, telemetry studies and others.

Recovery Objective 3. Protect, identify, evaluate, and monitor manatee habitats. Tasks identified under this objective include: (1) Protecting, identifying, evaluating, and monitoring existing natural and industrial warm-water refuges and investigate alternatives; (2) establishing, acquiring, managing, and monitoring regional protected-area networks and manatee habitat; (3) ensuring that minimum flows and levels are established for surface waters to protect resources of importance to manatees; and (4) assessing the need to revise critical habitat. Important habitats for the Florida manatee include winter sources of warm water, forage, drinking water, travel (or migratory) corridors, and sheltered areas for resting and calving. The most significant of these include winter warm-water and winter foraging areas. Florida manatees are at the northern limit of the species' range and require stable, long-term sources of warm water during cold weather and adjacent forage to persist through winter periods. Historically, manatees relied on the warm, temperate waters of south Florida and on natural warm-water springs scattered throughout their range as buffers to the lethal effects of cold winter temperatures. Absent warm water, prolonged exposure to cold water temperatures results in debilitation and/or death due to ''cold stress syndrome'' (Bossart *et al.,* 2004, p. 435; Rommel *et al.,* 2002, p. 4). Several areas in this recovery effort summary (such as in Objective 1 above) show efforts that we are taking to protect these sites and continue to implement recovery for the West Indian manatee.

Recovery Objective 4. Facilitate manatee recovery through public awareness and education. Tasks include: (1) Developing, evaluating, and updating public education and outreach programs and materials; (2) coordinating the development of manatee awareness programs and materials to support recovery; and (3) developing consistent manatee viewing and approach guidelines, utilizing the rescue, rehabilitation, and release program to educate the public.

Manatee conservation relies on significant education and outreach efforts. While the Service and State of Florida engage in these efforts, many diverse stakeholders also participate in these activities. Counties, municipalities, boating organizations, manatee advocacy groups, environmental organizations, and others produce and distribute outreach materials through a variety of media. An active manatee rescue and rehabilitation program displays manatees that are being rehabilitated and promotes conservation through display and educational programs.

Significant education and outreach efforts include Crystal River National Wildlife Refuge's (NWR) manatee kiosks, located at all water access facilities in Kings Bay, Florida, and adjoining waters. The kiosk panels provide the public with information about manatees and guidance addressing manatee viewing activities. The kiosks are supported by Refuge-linked web media that provide additional information about manatee harassment and user activities (Vicente 2015, pers. comm.). SeaWorld Orlando, through its permitted display of rehabilitating manatees, reaches out to unprecedented numbers of visitors. The display addresses the park's rescue and rehabilitation program and informs the public about threats to manatees and what the public can do to reduce the number of manatees affected by human activities (SeaWorld Parks and Entertainment, 2016; see: *http://seaworld.org/en/animal-info/animal-infobooks/manatee*).

Recovery Plan for the Puerto Rican Population of the West Indian (Antillean Manatee)

The 1986 Recovery Plan does not establish quantitative recovery criteria to describe a sustainable population of manatees in Puerto Rico. It does, however, direct the Service to determine and satisfy the recovery criteria that are based on mortality and abundance trends and a minimum population size and ensure that adequate habitat protection and anti-poaching measures are implemented (USFWS 1986, Executive Summary). The Recovery Plan also specifies that delisting should occur when the population is large enough to maintain sufficient genetic variation to enable it to evolve and respond to natural changes and stochastic or catastrophic events. As previously explained, the Service has made substantial progress implementing a number of recovery actions, and some other actions are in progress.

In the absence of historical data (previous to the late 1970s) that identifies a clear goal for population size, and population parameters such as adult survival rates, which have the highest potential effect on growth rate (Marsh *et al.* 2011, p. 255), it is not possible to stipulate with precision the population size and vital rates that should characterize a recovered, self-sustaining population of manatees in Puerto Rico. Hunter *et al.* (2012, p. 1631) describes low genetic diversity for the Puerto Rico population of Antillean manatees, and cites other authors that suggest at least 50 genetically effective breeders (~500 individuals) are needed to prevent inbreeding depression for short-term population survival, while other researchers suggest population levels in the upper hundreds to thousands in order to maintain evolutionary potential. The average estimate of 532 for the manatee population in Puerto Rico, ranging from a minimum of 342 to a maximum of 802 individuals (Pollock *et al.* 2013, p. 8), is just within the numbers of a viable population mentioned by Hunter *et al.* (2012, p. 1631). The Service considers the Puerto Rico Antillean manatee population as stable, as it did in the previous status assessment (USFWS 2007, p. 33). Past and current aerial surveys also serve to demonstrate that the island-wide size and distribution of

the Puerto Rico manatee population does not seem to have changed. In the 45 years that have passed since the species was listed, it can be said that, according to the population numbers and maintenance of the population's island-wide distribution, the Puerto Rico manatee population has shown resilient attributes for long-term persistence in spite of past and present natural and anthropogenic threats.

Major tasks for recovery include reduction of human-caused mortality, habitat protection, identification and control of any contaminant problems, and research into manatee behavior and requirements to direct future management (USFWS 1986, Executive Summary). The Service has already identified important manatee habitat and will continue to use and pursue new strategies towards manatee habitat protection together with the PRDNER. Planned research in the near future will focus on manatee health assessments to gain baseline information into potential contaminant problems and disease.

Florida Manatee Recovery Plan

The Florida Manatee Recovery Plan (USFWS 2001, entire) identifies criteria for downlisting the Florida subspecies from endangered to threatened and criteria for removing the subspecies from the List of Endangered and Threatened Wildlife. Both downlisting and delisting criteria include Listing/Recovery Factor criteria and demographic criteria. Criteria can be found in Supplemental Document 1 in Docket No. FWS–R4–ES–2015–0178.

A 2004 review of the demographic criteria noted that these criteria are largely redundant and that (1) no manatee population can grow at a fixed rate indefinitely as limiting resources will eventually prevent the population from continuing to grow at that rate and the population will ultimately reach stability; (2) the reproductive criterion is difficult to estimate and the modeling results are difficult to interpret; and (3) demographic recovery criteria should be linked to statistically rigorous field data, as well as to the specific population models that are intended for their evaluation. See previous review of demographic data in Florida Manatee Recovery Plan Objective 3. Absent demographic criteria for the Florida manatee, we rely on more recent demographic analyses and a threats analysis of the five listing factors to support our reclassification, instead of the existing recovery criteria.

Downlisting Criteria Listing/Recovery Criterion A

1. Identify minimum flow levels for important springs used by wintering manatees.

Minimum spring discharge rates that consider estimated flow rates necessary to protect water supply and support overwintering manatees have been identified for some springs used by manatees. Minimum flows were established at Blue Spring, Fanning Spring, Manatee Spring, the Weeki Wachee River system and Weeki Wachee Springs, Homosassa Springs, and Chassahowitzka Spring. Florida water management districts have scheduled, or are in the process of scheduling, minimum flow requirements for the remaining springs (see Table 3). These regulations will ensure that adequate flows are met to support manatees. To date, minimum flows have been adopted for six springs, and efforts are under way to develop flows for two additional springs, including the Crystal River springs complex. The status of efforts to establish minimum flows for eight remaining springs are unknown.

TABLE 3—PROJECTED TIMEFRAMES FOR ESTABLISHING SPRING MINIMUM FLOWS

[From water management districts]

Spring	Adopted/year proposed for adoption	Notes
EAST COAST, FLORIDA		
Upper St. Johns River Region:		
Blue Spring (Volusia County)	ADOPTED.	
Silver Glen Springs (Marion County)	UNKNOWN	To be initiated in 2017.
DeLeon Springs (Volusia County)	UNKNOWN	Initiated in 2016.
Salt Springs (Marion County)	UNKNOWN.	
Silver Springs (Marion County)*	UNKNOWN	To be initiated in 2017.
Atlantic Region:		
No springs present	N/A.	
WEST COAST, FLORIDA		
Northwest Region:		
Crystal River System and Kings Bay Springs (Citrus County)	2017.	
Homosassa River Springs (Citrus County)	ADOPTED	Revision due 2019.
Weeki Wachee/Mud/Jenkins Creek Springs (Hernando County)	ADOPTED.	
Manatee/Fanning Springs (Dixie County)	ADOPTED.	
Wakulla/St. Mark's Complex (Wakulla County)	2021.	
Ichetucknee Springs Group (Columbia County)	UNKNOWN	Initiated in 2013.
Chassahowitzka River Springs (Citrus County)	ADOPTED	Revision due 2019.
Rainbow Spring (Marion County)*	UNKNOWN.	
Southwest Region:		
Warm Mineral Springs (Sarasota County)	UNKNOWN.	
Spring Bayou/Tarpon Springs (Pasco County)	UNKNOWN.	
Sulphur Springs (Hillsborough County)	ADOPTED.	

* At present, largely inaccessible to manatees.

2. Protect a network of warm-water refuges as manatee sanctuaries, refuges, or safe havens.

A network of warm-water sanctuaries/no-entry areas and refuges exists throughout much of the Florida manatee's range. Along the Atlantic Coast, all four of the primary power plant discharges have been designated as manatee protection areas and many lesser warm-water sites, such as the Coral Gables Waterway, are protected as well. In the St. Johns River region, Blue Springs is in public ownership, and the spring and run are protected. The four primary west Florida power plants are designated as sanctuaries/no-entry areas, and significant warm-water springs in Citrus County are designated as sanctuaries. Efforts are ongoing to improve conditions and management of southwest Florida's Warm Mineral Springs. See Supplemental Document 2 in Docket No. FWS–R4–ES–2015–0178.

3. Identify foraging sites associated with the network of warm-water sites for protection (see Criteria 4 below).

4. Identify for protection a network of migratory corridors, feeding areas, and calving and nursing areas.

Extensive research, including aerial surveys and field studies of tagged manatees, has identified many of the foraging sites associated with the Florida manatee's warm-water network, as well as migratory corridors, resting areas, and calving and nursery areas. In many of these areas, manatee protection area measures are in place to protect manatees from watercraft collisions. State and Federal laws afford some protection against habitat loss in these areas (see Factor D discussion below). For example, the Clean Water Act ensures that discharges into waterways used by manatees are not detrimental to grass beds and other habitat features used by manatees.

Downlisting Criteria, Listing/Recovery Criterion B

1. Address harassment at wintering and other sites to achieve compliance with the Marine Mammal Protection Act (MMPA) and the Endangered Species Act and as a conservation benefit to the species.

To address harassment at wintering and other sites, the Service and State have designated manatee sanctuaries and no-entry areas to keep people out of sensitive wintering sites. Federal, State, and local law enforcement officers enforce these restrictions and address any violations that occur outside of the protected areas.

Kings Bay, located in Crystal River, Florida, is a world-renowned destination for manatee viewing activities. Commercial viewing activities began in the early 1970s, and today's activities generate millions of dollars in income to the region. Harassment associated with this activity has been addressed through the purchase of properties of sensitive manatee habitat, the designation of manatee sanctuaries and protected areas, the creation and operation of the Crystal River NWR in 1983, extensive outreach activities, and enforcement of regulations prohibiting manatee harassment. The Service adopted the Kings Bay Manatee Refuge rule in 2012 (77 FR 15617; March 16, 2012) to expand existing sanctuary boundaries, better address manatee harassment occurring off refuge property, and minimize watercraft-related deaths in Kings Bay. The rule identifies specific prohibitions that can be enforced through the issuance of citations (USFWS 2012). Crystal River NWR recently adopted measures to help prevent any harassment in Three Sisters Springs and is considering further measures as the situation requires.

Downlisting Criteria, Listing/Recovery Criterion C

At the time the recovery plan was developed, there was no data indicating that disease and predation was a limiting factor, thus no reclassification (downlisting) criteria for this threat was deemed necessary and, consequently, no delisting criteria were established.

Downlisting Criteria, Listing/Recovery Criterion D

Specific actions are needed to ensure the adequacy of existing regulatory mechanisms as addressed below.

1. Establish minimum flows consistent with Listing/Recovery Criterion A.

See discussion under Listing/Recovery Criterion A, above.

2. Protect important manatee habitats.

Important manatee habitats have been identified and protected through a variety of means. Manatee habitat is protected through land acquisition and various Federal and State laws. Important acquisitions include Blue Spring in Volusia County and the Main Spring, Three Sisters Springs, and Homosassa Springs in Citrus County. Land managers for these sites manage habitat to benefit manatees. To ensure that these habitats and habitat in public waterways are protected, regulatory agencies such as the Army Corps of Engineers, the Florida Department of Environmental Protection (FDEP), State water management districts, and others review permit applications for activities that could adversely modify or destroy habitat and require permittees to avoid or minimize impacts. Discharges and runoff that could affect habitat are addressed through the Clean Water Act's NPDES permitting program, administered by FDEP with oversight from the Environmental Protection Agency (EPA).

3. Reduce or remove unauthorized take.

To address harassment at wintering and other sites, the Service and State have designated manatee sanctuaries and no-entry areas where manatees rest and shelter from the cold free from human disturbance. Federal, State, and local law enforcement officers enforce these restrictions and address any violations that occur outside of the protected areas.

Downlisting Criteria, Listing/Recovery Criterion E

1. Create and enforce manatee safe havens and/or Federal manatee refuges.

To date, the Service and State have created more than 50 manatee protection areas, and protection area measures are enforced by the Service, U.S. Coast Guard, FWC, and local law enforcement officers. The Service's Office of Law Enforcement has dedicated manatee law enforcement officers in Florida to address manatee enforcement issues. Service National Wildlife Refuges have refuge law enforcement officers who enforce on and off refuge manatee regulations as time and resources allow.

2. Retrofit one half of all water control structures with devices to prevent manatee mortality.

Water control structures are flood gates that control water movement and navigation locks that allow vessel passages through dams and impoundments, such as those associated with Lake Okeechobee. Manatees travel through these structures and are occasionally killed when structures are closed or opened. Manatee protection devices installed on these structures prevent manatee deaths. See discussion in ''South Florida Multi-Species Recovery Plan, West Indian Manatee.''

To date, all but one water control structure has been retrofitted with manatee protection devices. Efforts are ongoing to complete installation at the remaining site. This action has significantly reduced the impacts of control structure related manatee injury and death; such injuries or deaths are now relatively rare.

3. Draft guidelines to reduce or remove threats of injury or mortality from fishery entanglements and entrapment in storm water pipes and structures.

Some measures have been developed to reduce or remove threats of injury or mortality from fishery entanglements, and steps are being taken to minimize entrapments in storm water pipes and structures. Measures to address fishery entanglements include monofilament recycling programs and derelict crab trap removals; these two programs address primary sources of manatee entanglement. Storm water pipes and structures large enough for manatees to enter are designed to include features that prohibit manatee access. Existing structures are re-fitted with bars or grates to keep manatees out. In the event of entanglements or entrapments, the manatee rescue program intervenes. There are very few serious injuries or deaths each year due to these causes. Guidelines to minimize gear-related entanglements associated with netting activities have been developed. Similarly, guidance has been developed to reduce entrapment in storm water pipes and structures. See Factor E for additional information.

Remaining tasks to address the recovery of the Florida manatees include:

- Continue to address pending changes in the manatees' warm-water network (develop and implement strategies).
- Support the adoption of minimum flow regulations for remaining important springs used by manatees.
- Protect and maintain important manatee habitat.
- Continue to maintain, adopt, and enforce manatee protection areas as appropriate (continue to fund law enforcement activities and manatee protection area marker maintenance).
- Continue to address instances of manatee harassment.
- Continue to review and address warm- and freshwater discharges and boat facility projects that affect manatees.
- Maintain and install manatee protection devices on existing and new water-control structures.
- Continue manatee rescue and rehabilitation efforts, including efforts to minimize the effect of manatee entanglements and entrapments.
- Continue to monitor manatee population status and trends.
- Continue manatee education and outreach efforts.

The Florida manatee population, estimated at about 6,350 manatees, is characterized by good adult survival rate estimates and positive breeding rates. The recently updated threats analysis continues to identify losses due to watercraft and projected losses of winter warm-water habitat as the greatest threats to this subspecies (Runge *et al.,* 2015). The designation, marking, and enforcement of manatee protection areas in areas where manatees are at risk of watercraft collision, in addition to outreach efforts focused on minimizing this threat, addresses this concern. Numerous efforts have been made and are ongoing to protect and enhance natural warm-water sites used by wintering manatees. Addressing the pending loss of warm-water habitat from power plant discharges remains a priority activity needed to achieve recovery.

Summary of Comments

In the proposed rule published on January 8, 2016 (81 FR 1000), we requested that all interested parties submit written comments on the proposal by April 8, 2015. On January 13, 2016, the date closing the comment period was corrected to read April 7, 2016 (81 FR 1597). We also held a public hearing on February 20, 2016, at the Buena Vista Palace Conference Center in Orlando, Florida. The Service also contacted appropriate Federal and State agencies, scientific experts and organizations, tribes, and other interested parties and invited them to comment on the proposal.

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited independent expert opinion from 10 knowledgeable individuals with scientific and conservation expertise that included familiarity with the two subspecies of the West Indian manatee and their habitat, biological needs, and threats. We received responses from four of the peer reviewers. We reviewed all comments we received from the peer reviewers for substantive issues and new information regarding the status of the West Indian manatee. None of the peer reviewers who responded agreed with the proposal to reclassify the manatee as threatened (see Peer Reviewer comment section below for more details).

Section 4(b)(5)(A)(ii) of the Act states that the Secretary must give actual notice of a proposed regulation under section 4(a) to the State agency in each State in which the species is believed to occur, and invite the comments of such agency. Section 4(i) of the Act states, ''the Secretary shall submit to the State agency a written justification for his failure to adopt regulations consistent with the agency's comments or petition.'' The Service submitted the proposed regulation to the two State and territorial agencies where most West Indian manatees in the United States occur: Florida and Puerto Rico. We also sent the proposed regulation to the States in the remainder of the manatee's range, including Texas, Louisiana, Mississippi, Alabama, Georgia, South Carolina, North Carolina, and Virginia. We received written comments from the Florida Fish and Wildlife Conservation Commission (FWC). We did not receive official comments from the Puerto Rico Department of Natural and Environmental Resources (PRDNER). One of the peer reviewers is also a biologist in the PRDNER Marine Mammal Stranding Program. The other States did not respond to our request. The FWC agreed with our determination as it relates to the Florida subspecies. The PRDNER peer reviewer did not offer support for this determination as it relates to the Antillean subspecies and provided comments.

We requested comments from tribes found within the range of the Florida manatee and received responses from the Miccosukee Tribe of Indians of Florida and the Seminole Tribe of Florida. The Seminole Tribe had no comments on the proposed rule. The Miccosukee Tribe stated that it disagreed with the proposed rule. Specifically, the Miccosukee Tribe stated that it was concerned about the long-term survival of the species due to its cultural significance and that threats to the manatees' habitat (including warm-water habitat and loss of sea grass) must be mitigated before the species can be responsibly downlisted.

In an effort to encourage international comments, we advised species experts and governmental representatives in other countries within the species' range about the Service's status review and requested that they send information about Antillean manatees. The Service made this contact through emails sent to species experts identified in UNEP's Regional Management Plan for the West Indian manatee (2010, Appendix III). We also advised attendees at the December 8–13, 2014 Cartagena Convention that the Service was evaluating the status of the West Indian manatee and was requesting additional information to assist in its review. In addition, during the Seventh International Sirenian Symposium in December 2015, the Service announced that the 12-month finding would be published in January 2016. The Symposium included a significant number of international manatee experts, researchers, and managers, including those with expertise in West Indian manatees. We received very few responses from these sources regarding manatees outside the United States.

In all, we received 3,799 public comments, including petitions signed by 75,276 individuals. The petitions did not include substantive comments, but simply included statements to the effect that those signing them did not support the Service's proposed reclassification of the West Indian manatee. We identified 59 substantive comments, from all sources, to which we respond below.

State, Federal, Tribal, International, and Peer Reviewer Comments

(1) *Comment:* Both the FWC and Miccosukee Tribe shared their concerns that there is still work to be done to ensure that the conservation gains we have made to help make this determination are maintained. In particular, one important task is restoring and protecting a sustainable network of warm-water habitat for the Florida subspecies.

Response: For the southeastern United States, we identified the lack of protection or security of warm-water habitat as one of the two remaining principal threats in the proposed rule (reference 81 FR 1000 and 81 FR 1016) for the West Indian manatee. We look forward to the progress we can make with our conservation partners to ensure we preserve sustainable spring flows and good water quality for key warm-water sites that manatees depend on in Florida. We support restoration efforts and planning that is under way to make more springs accessible to manatees and protect habitat for the long term.

(2) *Comment:* FWC expressed support for the manatee protections that are currently in place and shared that they are important factors that have brought us to this point. They stated that maintaining these existing protection measures and other key recovery actions will be essential in sustaining manatees and moving them closer to recovery.

Response: We agree. The Service is working diligently with long-time partners including the FWC, local and city governments, and law enforcement at many levels to continue to reduce the few remaining threats to the Florida subspecies such as watercraft collisions or boat strikes. The substantial reduction in watercraft collisions and boat strikes will be critical to the recovery of the manatee. When this final rule becomes effective, all protective measures such as manatee protection areas, manatee sanctuaries, and no wake and speed limit zones will remain in place.

(3) *Comment:* The Marine Mammal Commission (MMC) commented that, because Florida and Antillean manatees constitute genetically and morphologically distinct subspecies, they merit independent consideration for purposes of listing decisions under the Act. They also noted that improvement in the status of the Florida subspecies and reduction in the threats it faces should have no bearing on a listing decision for the Antillean subspecies.

Response: The 12-month finding and proposed rule addressed the petition we received requesting that the West Indian manatee be reclassified from endangered to threatened under the Act. The petition received was for the listed entity, which is the West Indian manatee. As such we conducted an assessment of the status of the species as a whole. Therefore, our proposed rule and the analysis of status and threats addressed the entire listed entity. The assessment found that the species as a whole warrants listing as threatened. The Service will continue to monitor the status of the species, including the status of both subspecies.

(4) *Comment:* The MMC maintained that, in order to support the proposed action to reclassify the species from endangered to threatened, FWS needs to show that the taxon's status at the time of the original listing was in error given new information, that the taxon's abundance has increased to the point where it no longer is in danger of extinction, or that, even if the taxon's population size has not grown appreciably, the threats to its existence have been abated to the point where they no longer present a risk of extinction. The Service's analyses need to focus on why the status of the species, as a whole, has improved to the point, and/or that threats have been reduced to the point, where it no longer is in danger of extinction throughout all or a significant portion of its range.

Response: The factors for listing, delisting, or reclassifying species are described at 50 CFR 424.11. Based on the Service's analysis of the best available scientific and commercial data, the West Indian manatee has a relatively medium to large range-wide population with continuing threats that are being addressed to varying degrees. Although the species is not presently considered in danger of extinction (endangered), the population size, uncertainties and failure to address identified threats (including poaching, watercraft collisions, habitat loss and fragmentation, the loss of the Florida manatees' warm-water habitat, and others) make this species likely to become endangered in the foreseeable future (threatened), which we have determined is 50 years (see Summary of Factors Affecting the Species section). The best available scientific and commercial data support our finding.

(5) *Comment:* The MMC reiterated its earlier recommendations that FWS (1) complete a review of the unprecedented manatee cold stress and red tide-related die-offs in recent years (*i.e.,* 2009–2013), (2) estimate past trends in the frequency of such die-offs and project those estimates into the future, and (3) assess the effects of anticipated power plant closures on the long-term viability of Florida manatees and the likelihood that natural warm-water refuges will be sufficient to support existing levels of manatees as refuges currently provided by power plants are lost.

Response: The Service relies on the Manatee Core Biological Model (CBM) (Runge *et al.* 2015) and other sources of information to evaluate the effect of the 2009–2013 die-off events, as well as to estimate the effect of similar occurrences in the future. The Service received a CBM update on September 28, 2016, wherein the modelers asserted that the Florida manatee population could withstand events similar to those of 2009–2013. The modelers planned to further evaluate the effect of future multiple events of varying magnitude. During the update, the modelers described a post- power plant discharge future whereby Florida manatees would persist, assuming measures were in place to protect natural and non-human dependent sources of winter warm water.

Peer Reviewer Comments

(6) *Comment:* A peer reviewer expressed concern about Castelblanco-Martínez *et al.*'s (2012) model assumption that the Antillean manatee population is a metapopulation. The peer reviewer stated that this assumption was invalid.

Response: The metapopulation assumption is supported by information that suggests that, while both genetic and geographical barriers exist within the West Indian manatee's range, there is genetic admixture and long-distance travel, even between the Florida and Antillean subspecies' range (García-Rodríguez *et al.* 1998, Vianna *et al.* 2006, Hunter *et al.* 2010, Nourisson *et al.* 2011). Thus, it is logical to assume a certain degree of interaction between some of the six subpopulations as described by Castelblanco-Martínez *et al.* (2012, p. 131). The Service recognizes that some interactions seem unlikely, and this assumption is captured by the model; for example, interactions between the Greater Antilles subpopulation (1) and the Brazil subpopulation (6) are unlikely to occur, in which case Castelblanco-

Martínez *et al.* (2012) assigned the lowest migration rate (1 percent).

In addition, Castelblanco-Martínez *et al.* (2012, p. 132) did not assume inbreeding depression based on the available information on the sporadic long-distance movements of manatees between some subpopulations. Furthermore, although there may be inbreeding accumulation in some populations, in Belize, there are no indications of decreased fitness (Hunter *et al.* 2010, p. 598); and, to our knowledge, in the rest of the range of the West Indian manatee, fitness is not decreased. Thus, whether or not the metapopulation assumption is invalid, our final rule decision would not be different. The metapopulation model is only one of several parameters we evaluated for the status review and this listing determination.

(7) *Comment:* A peer reviewer pointed out Hanski and Gilpin's (1991) observation that some metapopulations characterized by historical, continuous, spatial distribution are no longer functioning as metapopulations because of habitat fragmentation that causes the limited dispersal of individuals such that localized populations become extinct. The peer reviewer stated that this is what has happened to the Antillean manatee. The peer reviewer stated that, in the past, the manatee was present in the Lesser Antilles (Lefebvre *et al.* 2001) where it was driven to extinction and that the manatee has not re-established itself there because individuals no longer disperse into this region.

Response: The Service relied on Castelblanco-Martínez *et al.*'s (2012) model for the metapopulation of Antillean manatees as part of its best available information used to assess the status of the subspecies (see Comment 6). Although there are records that manatees did occur in the Lesser Antilles in historical times, manatees are generally considered to have been rare in that region and were potentially wanderers that moved among the islands of the Lesser Antilles (Lefebvre *et al.* (2001, p. 460).

(8) *Comment:* A peer reviewer observed that a PVA has not been conducted for both of the subspecies, or for the species throughout its range. A preliminary PVA conducted for the Antillean manatee indicated that the population is far from stable (Arriaga *et al.,* in Gómez *et al.,* 2012, entire.).

Response: The Service appreciates the Gómez *et al.* (2012) reference (unpublished report) and, after reviewing the new information, we maintain the model is consistent with our analysis that there is a small chance that the Antillean manatee could become extinct in the next 50 years (foreseeable future). For example, the Gómez *et al.* (2012, pp. 75–76) model results show that the extinction risk in 100 years was only equal or greater than 10 percent when the manatee population sizes were 50 individuals or less, with a combination of some of the highest adult mortality and habitat loss values. We clarify that in the proposed rule we did not describe the Antillean manatee population as stable, but rather as declining throughout most of its range, based on the available information. As human populations within the species' range continue to grow (Marsh *et al.* 2012, p. 321) so too will resultant increases in human-related threats to manatees and the West Indian manatee population. Remaining and increasing human-related threats that, if not addressed, will likely lead the species towards being endangered in the foreseeable future include habitat loss, degradation, and fragmentation; watercraft collisions; poaching; and others. We will continue to monitor the status of human-related threats and the Florida subspecies.

(9) *Comment:* A peer reviewer stated that, based on recent studies in the Tabasco area of Mexico and in the rivers and lagoons of Chiapas and Campeche in the Gulf of Mexico, manatee counts are lower than previously thought. Accordingly, the Mexican manatee population could be lower than earlier estimates that relied on expert opinion and anecdotal information.

Response: We appreciate the additional information. In our proposed rule, we cited population estimates from UNEP (2010, p. 11), Castelblanco-Martinez *et al.* (2012, p. 132) and Martin *et al.* (2015, p. 44) and estimated the population for Mexico at 1,500 animals. The commenter stated that the population in Mexico was between 1,000 and 2,000 animals. This estimate is consistent with the referenced material and is noted in Table 1.

(10) *Comment:* A peer reviewer wrote that it is unfortunate that downlisting is being considered now for the West Indian manatee in Puerto Rico. The peer reviewer stated that ''there are legal reasons for doing so, but ecologically and biogeographically, it does not make sense. The situations for the Antillean manatee and the Florida manatee are almost inverses of each other. Florida is the home base for *T.m. latirostris,* and there are sufficient data for population modeling to show that the population has grown. Puerto Rico is certainly not the home base for *T.m. manatus,* and the expert opinions and guesstimates from biologists in other countries indicate that in the entire range of *T.m. manatus,* there might be as many manatees as there are in Florida. The discussion about *T.m. manatus* mortality on 81 FR 1004 seems oddly biased, as it leaves out deliberate and incidental take in nets, a major source of mortality in many countries outside of the U.S. and PR, as well as other sources of mortality. Perhaps this is a text organization problem, as there is more discussion about mortality on 81 FR 1007. There is great uncertainty about the status of *T.m. manatus* throughout its range.''

Response: The Service was petitioned to evaluate the status of the West Indian manatee across its entire range and not only the Antillean subspecies or the Puerto Rico population. We did not intend to imply in our proposed rule that the Puerto Rico population is the home base for the Antillean manatee population. The Puerto Rico population is, however, one of the populations for which more current and reliable information is available and one of the few populations within the species' range that is thought to be at least stable and for which threats such as poaching no longer occur. In addition, fisheries-related take of manatees in Puerto Rico is considered a minimal threat, given there are only four documented manatee fisheries-related deaths in 34 years (PRDNER unpubl data). In making our determination, the Service identified the different threats and challenges that affect each subspecies (Florida and Antillean). In addition, we also recognized that there is more uncertainty, with the Antillean manatee population numbers (Table 1) and threats, than with the Florida manatee population. Mortality is discussed in greater detail under the Summary of Factors Affecting the Species section of the proposed and this final rule. We specifically discussed mortality caused by nets under the *Fishing gear* section of Factor E.

(11) *Comment:* A peer reviewer stated that the basis for the proposed rule is the population estimate for the Florida manatee (6,350) and for the Antillean manatee in Puerto Rico (532). From those numbers, without a thorough PVA being conducted for the Antillean manatee in Puerto Rico, a conclusion is made that the numbers reflect a low percentage of this animal becoming extinct in the next 50 years. Again, the conclusion is being driven by the status and information of the Florida manatee. The information included for the Antillean manatee is only for those in Puerto Rico and lacks information for all other range countries. The estimate of 532 individuals for the manatee

population in Puerto Rico is an adjusted mean, which was recently calculated based on 2010 data. That number has a 95 percent equal area confidence interval (CI) of 342–802. Based on manatee sightings and the lack of knowledge by people living on our coasts regarding manatee presence, it is likely that the manatee population in Puerto Rico is on the low range of that CI. Having only 342 individuals, and considering threats, habitat degradation, illnesses, habitat displacement, and so on, this subspecies had a high percentage of going extinct in the next 50 years or at least ceasing to be viable.

Response: In making our determination, we evaluated and presented the best available information on the status and threats of the West Indian manatee across its entire range and not just the Florida and Puerto Rico populations. This information indicates that West Indian manatees are distributed across its entire range (see Table 1) and several of these populations are relatively large and have proven they can withstand stochastic events, such as extreme localized cold events. Based on two published population models (Castelblanco-Martínez *et al.* 2012; Runge *et al.* 2015) and a threats analysis, we concluded that there is a small chance that the West Indian manatee (not the Puerto Rico Antillean manatee population) could become extinct in the next 50 years and this species would retain its general distribution on the landscape. As such, the West Indian manatee (range wide) is not in danger of extinction (endangered), but rather, the species range-wide is likely to become endangered in the foreseeable future (50 years) (threatened). The peer reviewer also submitted an unpublished population model for the Antillean manatee (Arriaga *et al.,* in Gómez *et al.,* 2012, entire) that is consistent with our determination (see Comment 8). The commenter provides no additional information as to why the Puerto Rico population is likely to go extinct or cease to be viable within the next 50 years.

(12) *Comment:* A peer reviewer commented that the discussion on Puerto Rico's habitat threat focuses on the sea grass areas as the main manatee habitat. Although the proposed rule acknowledges that the data collected by PRDNER indicate that sea grasses are being severely impacted by anthropogenic actions, which leads to a decrease in sea grass density and habitat fragmentation, the information leads to the conclusion that sea grass is not a limiting factor, even when it is unknown how much sea grass is needed to sustain a large manatee population. In addition, the discussion does not take into account that the scant research conducted until now regarding manatee feeding habitat in Puerto Rico suggests that the Antillean manatee might be a more specialized sea grass grazer than the Florida manatee (Lefebvre *et al.,* 2000). This characteristic might be true for the Antillean manatee throughout its range.

Response: The Service specified that, although the immediacy and magnitude of the degradation and loss of manatee habitat varies across the species' range, available manatee foraging habitat does not seem to be a limiting factor for the West Indian manatee, including Puerto Rico (Lefebvre *et al.* 2001, entire; Orth *et al.* 2006, p. 994; UNEP 2010, entire; Drew *et al.* 2012, p. 13). In addition, the commenter did not provide additional information that indicates that a seagrass or foraging area limitation or specialization is decreasing manatee fitness or causing manatee mortalities in Puerto Rico. The Service will continue to monitor research regarding manatee foraging behavior and potential effects of degraded foraging habitat on the manatee population.

(13) *Comment:* A peer reviewer noted that poaching is a major threat throughout most of the countries within the range of the Antillean manatee. This is a threat that could bring the species to extinction and was actually responsible for causing the extinction of populations in some countries. Poaching is a clear and present threat for the Antillean manatee and should not be discounted just because the Service is confident that initiatives being pursued will have a positive outcome. Furthermore, while foreign governments have instituted regulations to address poaching, it is widely acknowledged that some countries have few resources to enforce regulations and that these countries are unlikely to minimize this threat anytime soon.

Response: The Service has not discounted the threat of poaching and referenced Marsh *et al.* (2011, p. 265) to conclude that poaching is a major threat to the manatee population outside of the southeastern United States (which includes Puerto Rico). Some information suggests that manatees became extinct in a few islands in the Lesser Antilles, likely due to hunting. However, records documenting historical manatee presence suggest that they were rare in the region and were potentially wanderers that moved among the islands of the Lesser Antilles (Lefebvre *et al.,* 2001, p. 460). Currently, we believe that even though poaching may still occur in some regions, it no longer occurs in a few regions, and has been reduced in others (UNEP 2010, entire; Marsh *et al.* 2011, p. 386). However, the Service recognizes that some of the small and declining populations of the Antillean manatee subspecies are most likely not able to sustain continued illegal poaching. The Service will continue to gather information on the poaching threat to West Indian manatees and will reach out to these countries to assist them with their efforts to address this and other threats as resources permit.

(14) *Comment:* A peer reviewer said that the proposed rule stated that the inadequacy of existing regulatory mechanisms is a moderate threat to the West Indian manatee. The reviewer further stated that, ''from that analysis, [if] we take out the considerations that apply only to the Florida manatee, where many measures are in place, we could conclude this is a significant threat. As mentioned throughout these comments, the lack of implementation, enforcement and oversight make many of the conservation strategies inefficient or fruitless. Downlisting the species may not have an impact in the Florida manatee, but it will in the Antillean manatee. Ruling and conservation measures, that are not currently strong enough because of lack of enforcement, will be more lenient.''

Response: In evaluating this factor, the Service specified that, although numerous regulatory mechanisms are in effect, challenges in the enforcement of these regulatory mechanisms exist. Based on the overall comments received regarding this factor, regulations to protect manatees may not be as effective elsewhere as they are within the United States and Puerto Rico. Thus, the Service recognizes that the lack of or inability to enforce regulatory mechanisms can have negative consequences for the West Indian manatee. However, because the manatee is listed in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), there are protections that will remain in place following downlisting under the Act. See Factor D, Inadequacy of Existing Regulatory Mechanisms. An Appendix I listing includes species threatened with extinction whose trade is permitted only under exceptional circumstances, which generally precludes commercial trade. The import of specimens (both live and dead, as well as parts and products) of an Appendix I species generally requires the issuance of both an import and export permit under CITES. Import permits are issued only if findings are made that the import would be for

purposes that are not detrimental to the survival of the species in the wild and that the specimen was lawfully acquired (including under foreign domestic law). Protections under the Act will remain in effect.

(15) *Comment:* One peer reviewer stated that Deutsch *et al.*'s (2008) suggestion, that numbers of Antillean manatees were likely to decline by 10 percent over the next three generations (~60 years), more generally reflects expert opinion than do the results of the Castelblanco-Martinez *et al.* (2012) analysis.

Response: The Service referenced Deutsch *et al.* (2008) in the first paragraph of the Population Trends section of the proposed rule and this final rule. We clarify that the expected 10 percent rate of decline was specified for the West Indian manatee, listed by IUCN as Vulnerable, and not the Antillean manatee, listed by IUCN as Endangered. In addition, no further information was provided by the commenter as to why Deutsch *et al.* (2008) more generally reflects expert opinion than do the results of Castelblanco-Martínez *et al.*'s (2012) analysis. The Service recognizes that the available information suggests the Antillean manatee may be declining throughout most of it range. However, considering the best available information on the present status of the West Indian manatee and the factors that may threaten it, the Service maintains the species does not meet the definition of an endangered species. Please refer to the section entitled *Summary of Factors Affecting the Species.*

Public Comments

Comments on Topics That Apply to Population Models

(16) *Comment:* We received several comments on our use of the Antillean manatee model presented in the Castelblanco-Martínez *et al.* (2012) publication. Commenters included the author and co-authors, who sent a letter to clarify in part that their article addressed a potential growing trend only in the Antillean manatee subspecies and not the Florida manatee subspecies. They also stated that the results of the model were misinterpreted in the proposed rule and highlighted information in their paper to support their claims. The authors identified model projections that would lead to the extinction of the Antillean manatee population under different levels of risk, including specific increases in human-related mortality and/or habitat fragmentation (Models 2, 3, 5, 6, 8 and 9). They also mentioned that their model did not take into account the effects of climate change that could definitively have an important impact on population viability by increasing the frequency and intensity of stochastic events.

Response: We clarify that we used the Castelblanco-Martínez *et al.* (2012) model only in our evaluation of the Antillean manatee subspecies, and used the Runge *et al.* (2015) model to evaluate the Florida manatee subspecies. We used other best available information, in addition to the models, in the proposed and this final rule for the West Indian manatee. We acknowledge that Castelblanco-Martínez and co-authors presented several scenarios for the Antillean manatee population and note that these were accounted for in our assessment. The Service considered all scenarios and models as well as known threats when making our determination that this species is now threatened throughout all or a significant portion its range (rather than endangered). Please refer to the beginning of the Summary of Factors Affecting the Species section, which describes the difference between endangered and threatened species. We also added further discussion of the model under the Population Trends section.

Finally, the Service believes that the effects of climate change were considered in the model which used hurricane frequency data (catastrophic events) (Castelblanco-Martínez *et al.* 2012, p. 136). The authors explain that the modeled ''variation in the intensity and frequency of hurricanes did not lead to any important changes in the population growth curves'' for the Antillean manatee population (Castelblanco-Martínez *et al.* 2012, p. 138). For additional information on potential effects due to climate change on the West Indian manatee, please refer to the discussion in Factor E section.

(17) *Comment:* The FWS proposed rule contradicts the Castelblanco *et al.* (2012) PVA conclusion that the Antillean manatee population is experiencing positive growth, as the FWS cites a number of sources of expert and local opinions to state that in most of the countries Antillean manatee populations are declining.

Response: In our rule, we discuss all available information that indicates either positive growth rates or population declines. Both the Service and Castelblanco-Martínez *et al.* (2012) cite sources that state that the Antillean manatee population appears to be declining throughout most of its range. We included these sources in our review of the species' population biology and also relied on models, including Castelblanco-Martínez *et al.* (2012), to evaluate the effect of known threats on this population. Castelblanco-Martínez *et al.* (2012) used this information in their model runs and discussion of various population scenarios and concluded that the Antillean manatee population is experiencing positive growth, using their model parameters, which the Service considered in this rule. (Refer to the Population Trends section for greater detail on this model). For example, it assumes that all threats have an equal effect on the different subpopulations. Our threats assessment considered the best available scientific and commercial information, including published models, scientific papers, reports, and other reliable information. Please refer to Comments 8 and 11 and the Population Trends section for further discussion on Castelblanco-Martínez *et al.* (2012).

(18) *Comment:* The analysis by Runge *et al.* (2015) provides results that are credible only if one makes certain questionable assumptions (*e.g.,* threats will not increase, etc.). The commenter believes that the proposed extinction probabilities may be inappropriately optimistic and that the model results should be considered with caution and recognized only as the best-case scenario.

Response: The Manatee CBM integrates an understanding of current and foreseeable threats in a common risk analysis framework. It projects a risk of extinction under the status quo (current scenario) and can address questions such as, ''If a threat is reduced by 50 percent, how much would the extinction risk be expected to decline?'' The model provides a tool for assessing growing and changing threats (Runge *et al.,* 2015, p. 2). The Service believes that model results are a fair depiction of the current state of knowledge that appropriately incorporates and articulates uncertainty. The Service considered CBM-derived probabilities of extinction for the Florida manatee in the context of many additional sources of information in its evaluation of the status of this subspecies and the species at large.

(19) *Comment:* The proposed rule and CBM did not take into account the cold weather, Indian River Lagoon, and red tide die-off events that occurred between 2010 and 2013.

Response: The proposed rule took into account the die-off events in its review of population trends. See proposed rule of January 8, 2016, at 81 FR 1005. However, the CBM, which

evaluates the effect of various threats on the Florida manatee population, did not evaluate these events because 2010–2013 adult survival rate estimates needed for the model runs were not available when this rule was written. Please see discussion in the proposed rule, *Population Trends.*

(20) *Comment:* The Service relied on Runge *et al.*'s (2015) CBM to evaluate extinction probabilities. The validity of model results depends on the completeness and quality of data for critical parameters, as well as up-to-date information. The commenter stated that he does not believe that the data used by Runge *et al.* (2015) are always the best available and is concerned that the model did not consider sublethal effects. In particular, the commenter noted the CBM did not use adult survival rate estimate data for the 2010–2013 die-off years. Because of this, the commenter expressed a belief that certain projected outcomes may be unrealistic and inappropriately optimistic.

Response: Data used by Runge *et al.* (2015) were the best, most complete data available through December 2012. Data used for this analysis included data collected more recently (manatee photo-identification data used to calculate adult survival rate estimates). However, adult survival rates for periods beyond this date could not be calculated because of an end of time series bias inherent in the analyses. The authors described strengths and weaknesses associated with the data; adult survival rates used in the model runs were current through winter 2008–2009 and more recent rates were not available due to inherent backlogs associated with processing data. The CBM does include a number of sublethal effects. For example, sublethal effects are captured in the mark-recapture estimates of survival and some sublethal effects on reproduction, such as that which occurs during red-tide years, are also captured.

(21) *Comment:* CBM assumptions about the carrying capacity of warm-water refugia should be re-assessed using a more applied process than expert opinion.

Response: Model assumptions regarding the carrying-capacity of warm-water sites considered expert valuations of numbers of manatees that could survive variably severe winters. Considerations included the spatial extent of thermal refuges, the availability of food resources in proximity to those refuges, and the behavior of manatees, including their tolerance for human disturbance. The Service believes that, absent a quantitative valuation of warm-water habitat, the use of expert opinion provides a reasonable assessment of carrying-capacity for this review. With this said, there is still considerable uncertainty about warm-water capacity, including its magnitude and the mechanism by which it affects manatee population dynamics. We will continue to monitor the status of the manatee and its habitat.

(22) *Comment:* One commenter expressed the opinion that Runge *et al.*'s (2015) model does not consider an extensive seagrass die-off in Brevard County, which is arguably the most important habitat for manatees in the world. The Miccosukee Tribe expressed a similar concern about the effect of the loss of seagrass on manatees.

Response: While Runge *et al.* (2015, p. 1) does not factor in this loss of seagrass directly, it noted this occurrence and considered it and the coincidental loss of manatees in Brevard County. The model forecasts the Florida manatee population under different threat scenarios and addresses environmental, demographic, and catastrophic stochasticity. In short, catastrophic losses such as the loss of seagrass in Brevard County are broadly considered in model projections which suggest that the population can withstand such events.

Comments on Topics That Apply to Antillean Manatees

(23) *Comment:* Uncertainty of [population] estimates for the Antillean manatee, acknowledged by the Service to be conjectural, are highly unreliable and do not comport with the statutory requirement for listing decisions to be based on the best available scientific information. The FWS also does not explain why it did not select a lower, more conservative population estimate or at least cite a range of possible population estimates for the Antillean manatee.

Response: The Service identified the range of possible population sizes in the *Population Size* section of the proposed and the final rule. In this final rule, we have also edited Table 1 to include the minimum population estimates for the West Indian manatee across its entire range based on the best available information and recognizing the uncertainties in the data. Our estimate of the total West Indian manatee population currently ranges between 8,396 and 13,142 (Table 1). Population size, while an important component regarding a species' status, is not the only factor that should be assessed when evaluating a species' survival. Factors such as mortality, resilience to withstand stochastic events, genetic diversity throughout the range, potential reduced fitness and extensive distribution of populations across its range (refer to Table 1), among others, must also be considered. Another approach is to utilize existing data to conduct stochastic population modeling and extinction risk assessment, such as those conducted by Castelblanco-Martínez *et al.* (2012) and Runge *et al.* (2015). For example, for the Antillean manatee population, the Castelblanco-Martínez *et al.* (2012) model did not show any significant response to variations in the assumed initial population sizes, using 1,675 as the lowest initial population size value and 6,700 as a reasonable value for their baseline model (Castelblanco-Martínez *et al.* 2012, p. 137). The Castelblanco-Martínez *et al.* (2012) approach represents the best science and provides sound estimates of the Antillean manatee numbers.

(24) *Comment:* Some commenters, including the Miccosukee Tribe said that it is unclear why the FWS feels justified to downlist the Antillean manatee since the agency's own 12-month finding cites that ''population trends are declining or unknown in 84 percent of the countries where manatees are found.''

Response: A species can be declining and not necessarily be endangered. In making our determination, the Service concluded that the West Indian manatee is not currently endangered but is likely to become endangered in the foreseeable future (threatened). On the basis of our analysis, we find that many threats (habitat loss and fragmentation, watercraft collisions, loss of the Florida manatees' winter warm water habitat, and others) have been reduced but continue to exist; these threats are expected to persist and may escalate in the future. New and ongoing conservation efforts will be needed to prevent the species from becoming endangered in the foreseeable future. Since most of the Antillean manatee population is thought to have a declining or unknown trend, existing or new potential threats, if not addressed, may lead the species towards being endangered in the foreseeable future. This is consistent with the Act's definition of a threatened species. Please refer to the Summary of Factors Affecting the Species, which describes the difference between endangered and threatened species.

(25) *Comment:* The FWS fails to evaluate the status of the population in the rest of the Caribbean (outside of Puerto Rico) and fails to adequately evaluate the five statutory criteria with respect to the entire range of the species,

as threats to these populations are increasing and enforcement for the Antillean manatee is lacking.

Response: The Service evaluated the status of the West Indian manatee across its entire range based on the best available information. The Service recognized that the immediacy and the magnitude of threats vary across the West Indian manatees' range. The commenter did not provide additional information as to how the threats of the species are increasing and enforcement is lacking beyond that already considered in our analysis. Please refer to the Summary of Factors Affecting the Species section for the analysis that examines all five factors currently affecting or that are likely to affect the West Indian manatee.

(26) *Comment:* The FWS repeatedly determines that individual threats or the sum of threats under each listing factor only pose a moderate threat to the Antillean subspecies outside the United States, but frequently and frankly acknowledges that it lacks credible data on which to base these judgments.

Response: The Service is required to make decisions under the Act based solely on the best scientific and commercial information available. The Service must examine how and to what extent threats impact the species such that it meets the definition of threatened or endangered. In this case, the threats assessment was completed for the West Indian manatee across its range. Our assessment included a five-factor analysis and review of demographic parameters. In some cases, data were less than conclusive and we made rational and explicit inferences based on our best professional judgment that reflected the extent of our uncertainty and consequences of being incorrect.

(27) *Comment:* At the lower population estimate of 700 individuals in Belize, the 2015 mortality represents a 5.7 percent mortality of that population, which is already higher than the 5 percent that population modelling indicates to be sustainable (Castelblanco-Martinez *et al.* 2012). With the opening of another cruise ship port in November 2016, with all its land-based tours scheduled to be accessed by boat through another high-density manatee area, conservation planning based on best available data indicates the potential for significant increased additional mortality (Walker *et al.* 2015).

Response: The Service appreciates the new information received from Belize, which is addressed in this final rule. Increases in boating traffic in high density manatee areas may increase watercraft-related mortality as noted in Florida (Laist and Shaw 2006, p. 473) The Service recognizes that Belize represents one of the largest Antillean manatee populations, and we are concerned about the increased manatee mortality here. However, the Service was petitioned to evaluate the status of the West Indian manatee across its entire range. We will continue to evaluate how the Service can coordinate manatee conservation occurring in Belize and in the rest of the West Indian manatee's range.

(28) *Comment:* The proposed downlisting is contrary to the appraisal of Belize's National Manatee Working Group (NMWG), which has determined that, although the current population is rated as FAIR (Belize National Manatee Recovery Plan, Ortega-Argueta, in prep.), the current level of mortality is unsustainable, and that the population will crash with a continuation of this mortality rate. The NMWG is working with the Government of Belize to identify and implement actions to reduce the mortality rate. The proposed downlisting could significantly hinder these actions, impacting the funding and leverage available to Forest Department and its partners to address threats to Belize's manatee population and implement direct conservation actions, and thereby increase the risk to Belize's population of Antillean manatees, and thereby the global population.

Response: The FAIR rating of the current Belize Antillean manatee population is consistent with the Service's definition and interpretation of a threatened species, a species that is likely to become endangered in the foreseeable future and is not currently endangered, even with the documented increasing threats. The Service would also like to coordinate with the National Manatee Working Group and the Government of Belize towards developing conservation strategies to reduce the current mortality rate. However, as stated in Comment 27 above, this rulemaking evaluates the status of the West Indian manatee throughout its entire range.

(29) *Comment:* The downlisting of the West Indian manatee is based on the successful population growth and stability seen in Florida, but largely ignores the remaining threats in Central and South America, for which the Service admits that it lacks quantitative information.

Response: In making our determination, the Service evaluated the best available information for the West Indian manatee, including population estimates and threats across the species' range. The Service recognizes that the immediacy and the magnitude of threats vary across the West Indian manatee's range. The commenter did not provide additional information on threats for the species beyond that already considered in our analysis. Please refer to the Summary of Factors Affecting the Species section for the analysis that examines all factors currently affecting or that are likely to affect the West Indian manatee in the future.

(30) *Comment:* Internationally, there is a lack of data outlining the type and level of threats in most range countries of the Antillean manatee. Making assumptions that threats have been managed in the Antillean subspecies' range is reckless.

Response: In our rule, we provided several references that indicate that a number of threats still remain throughout the species' range and others are being managed. However, we acknowledge that work still needs to be done and that ongoing efforts to recover the species could be improved. Please refer to the Summary of Factors Affecting the Species section for the analysis that examines all factors currently affecting or that are likely to affect the West Indian manatee.

(31) *Comment:* Several commenters believe that conservation efforts outside the United States are failing to promote the protection and growth of the Antillean manatee population. Furthermore, commenters believe that a downlisting by the Service could have a significant impact on the ability of countries outside the U.S. to implement recovery, implement protection measures, affect funding opportunities, and affect progress currently being made to maintain and strengthen the West Indian manatee population. One commenter noted that these countries rely on the full weight of the Act to justify expenditures, raise funds, and compel governments to protect and conserve this species.

Response: The change in status under the Act from endangered to threatened should not have an appreciable effect on manatee protections in foreign countries. This rule formally recognizes that this species is no longer presently in danger of extinction. The manatee would still be fully protected under the Act. The regulatory protections provided pursuant to section 9 and section 7 of the Act remain in place. Furthermore, this regulation does not affect the protections that the West Indian manatee is afforded under the MMPA and CITES. We applaud foreign governments like Belize, which has protected the manatee for over 30 years and is increasing conservation programs for this animal. We encourage all efforts

by any government agency to remove or reduce threats to the West Indian manatee, and the Service is amenable to working together towards achieving these goals (see **FOR FURTHER INFORMATION CONTACT**). The Service will continue to monitor the status of the species, and continue to work in partnership with other range countries when and where possible. Additionally, we note that the Service's Division of International Conservation works with partners worldwide to conserve fish, wildlife, plants, and their habitats (including the manatee and its habitat), and maintain the integrity of ecological processes beyond our borders, for present and future generations.

(32) *Comment:* It does not appear the Service undertook a comprehensive review of the data nor made contact with conservationists and governments in all of the range Antillean manatee states and it is not clear if the Service conducted a literature search for non-English documents and conservation plans and reviewed such documents.

Response: In connection with the proposed rule, in addition to contacting appropriate Federal and State agencies, Tribes and tribal organizations, scientific organizations, and peer reviewers to request comments on the proposed rule, the Service also contacted governments of the West Indian manatee range countries. Furthermore, in opening the rule to public comment, the Service requested that all interested parties submit factual reports, information, and comments that might contribute to development of a final determination for the West Indian manatee. Out of all the documents received by the Service, only a handful was in Spanish. These were evaluated at the Caribbean Ecological Services Field Office in Puerto Rico, where all of the employees are bilingual (*i.e.* proficient in both English and Spanish). The Service obtained information regarding the status of manatees in other ways. One source of information was the directory of people working with manatees within the UNEP (2010, Appendix III) document. We used the email addresses on that list to notify individuals about the petition and status review of the West Indian manatee and to request information on the status and threats of the species. We also reached out to attendees at the December 8–13, 2014, Cartagena Convention in which participants were advised that the Service was evaluating the status of the West Indian manatee and was requesting additional information to assist in its review. In addition, in December 2015, during the VII International Sirenian Symposium, the Service announced that the 12-month finding would be published in January 2016, and encouraged symposium participants to review and send comments accordingly. That Symposium gathered a significant number of manatee experts, researchers, and managers. The Service also sent a number of peer review requests on the proposed rule to manatee experts within the range of the Antillean manatee.

(33) *Comment:* This decision will negatively affect the current status of manatee populations in the region. The Antillean subspecies was declared ''Endangered'' due to reduction in numbers and habitat loss along the range. This critical status persists, according to several researchers, because of the paucity of effective conservation actions throughout its range and the current and projected future anthropogenic threats. There is no evidence of any improvement in the status of these populations and in fact, the lack of enough scientific information is jeopardizing its conservation in many countries. Please notice that the vulnerability of this group was proved already with the extirpation of the manatee populations from the Lesser Antilles.

Response: The Service was petitioned to evaluate the status of the West Indian manatee across its entire range. It, not only the Antillean subspecies, is the listed entity. In making our determination, we concluded that the West Indian manatee is not currently endangered, but rather likely to become an endangered species within the foreseeable future throughout all of its range. The level of protection afforded by the Act will remain the same. See also our response to Comment 11 for more information.

(34) *Comment:* The genetic diversity of the Antillean subspecies compels a finding that it should not be reclassified. Low genetic diversity indicates that the population is vulnerable to irreversible impacts due to environmental stochastic events, which are going to be very frequent in the face of climate change.

Response: The Service considered genetics and the effects of climate change in making our determination. Available information specifies that the genetic diversity of manatee populations in Belize and Mexico is slightly higher than in Florida and slightly lower in Puerto Rico (Hunter et al. 2012). Manatee populations in general, not only the Antillean, are characterized by low levels of genetic diversity (Hunter *et al.,* 2012). Furthermore, there is no information that shows a decreased fitness in Belize (Hunter *et al.,* 2010, p. 598) and, to our knowledge, in the rest of the range of the West Indian manatee population due to low genetic diversity. The commenter did not provide new information beyond what was considered in our proposed rule.

(35) *Comment:* [The Antillean manatee] is globally endangered, based on a predicted decline of more than 20 percent over the next two generations.

Response: This statement is from the species' IUCN listing information (Deutsch *et al.,* 2008), which we referenced in both the proposed and final rules. The Service referenced Deutsch *et al.,* (2008) in the *Population Trends* section of the proposed rule. The Service evaluated the status and threats for the West Indian manatee across its entire range. The IUCN classifies the West Indian manatee, the species addressed in this rule, as Vulnerable. Species classifications under the Endangered Species Act and Red List are not equivalent; data standards, criteria used to evaluate species, and treatment of uncertainty are not the same, nor is the legal effect. Unlike the Endangered Species Act, the Red List is not a statute and is not a legally binding or regulatory instrument. It does not include legally binding requirements, prohibitions, or guidance for the protection of threatened, critically endangered, endangered, or vulnerable taxa (IUCN 2012). Rather, it provides taxonomic, conservation status, and distribution information on species. The Red List is based on a system of categories and criteria designed to determine the relative risk of extinction (*http://www.iucnredlist.org/about/introduction*), classifying species in one of nine categories, as determined via quantitative criteria, including population size reductions, range reductions, small population size, and quantitative extinction risk. Further, based on the petition, the Service evaluated the status and threats for the West Indian manatee across its entire range and not only for the Antillean manatee. The Act requires the Service to determine if a species is an endangered or threatened species because of any of the section 4(a)(1) factors (16 U.S.C. 1533(a)(1)), based on the best available scientific and commercial data, which may include a qualitative threats analysis.

Comments on Topics That Apply to Florida Manatees

(36) *Comment:* Many commenters, including the Miccosukee Tribe, stated that the Service should not reclassify the Florida subspecies of the West Indian manatee without a proven, viable plan that addresses the loss of warm-water refuges at power plants.

Response: The Service is reclassifying the West Indian manatee, including both subspecies, to threatened. This does not mean that all threats have been addressed. For more information on efforts to address the loss of warm-water refuges, please see Recovery Actions in the proposed rule (*https://www.fws.gov/policy/library/2016/2015-32645.pdf*). For additional information, see Factor A and E sections in our threats analysis.

(37) *Comment:* The Service did not evaluate the Florida manatee in the context of the recovery benchmark criteria identified in the 2001 Florida Manatee Recovery Plan. The Service should not reclassify the Florida subspecies of the West Indian manatee without an updated recovery plan and recovery benchmark criteria unless and until measurable criteria are established and satisfied based on the five listing factors.

Response: The Service makes a decision to reclassify (delist or downlist) a species after review of all of the five listing factors in section 4 of the Act. We conducted this analysis in the context of recovery criteria identified in the 2001 Florida Manatee Recovery Plan. We did not, however, evaluate the manatee in the context of the Recovery Plan's population benchmark criteria for reasons set forth in the Recovery section of the preamble to this rule, namely that the benchmark criteria were found to be deficient and unusable. Note that the Service is not required to have current recovery plans and criteria when it evaluates the status of a species. Overall, recovery of species is a dynamic process requiring adaptive management, planning, implementing, and evaluating the degree of recovery of a species that may, or may not, fully follow the guidance provided in a recovery plan.

(38) *Comment:* The Service is relying on the State of Florida's synoptic survey counts to support its proposal to reclassify the West Indian manatee. These counts are biased, use bad counting procedures, and have very little scientific value. The Service must base its analysis on future threats and the actual health of the population and not these counts.

Response: We acknowledge that there are methodological issues (detection probabilities) inherent in the State's counts. Martin *et al.,* (2015, p. 44), in their estimate of abundance for the Florida manatee, address these issues by accounting for spatial variation in distribution and imperfect detection. We used the best available information to assess the counts, other demographic indicators, and the health of the population and considered threats in our analysis. Additionally, it is possible that the counts, when taken in the context of other demographic indicators (such as the estimated population growth rates), may reflect an actual increase in the population size (Runge *et al.,* 2015, p. 19).

(39) *Comment:* The Service has not adequately addressed expected coal plant closures that will leave manatees at risk of future significant population declines.

Response: The majority of Florida manatees rely on natural gas fired plants for warmth during the winter. Two coal-fired plants with discharges used by wintering manatees exist. The impact that future regulatory actions may have on these two sites is unknown. Should the plants be affected, the Service will work with the power plant industry and regulatory agencies to alleviate any potential adverse effects that could occur.

(40) *Comment:* The proposed rule states that all regulatory mechanisms will remain in place and will continue to provide legal protections to the species throughout its range should the manatees' status change from endangered to threatened. In Florida, elected government officials have taken steps to remove manatee protection zones. While they have not been successful, they will continue to try to remove them.

Response: Our review considers the inadequacy of all regulatory mechanisms, including the State of Florida's regulatory measures. We based our review on best available information available to us at the time of the review. We are aware of efforts that were subsequently made to remove manatee protection zones. However, these efforts were not successful. Because watercraft collisions are one of two of the most significant threats to Florida manatees, we are committed to working with State and local officials to ensure that effective manatee protection zones and other regulatory mechanisms remain in place to provide adequate protection.

The Service has an agreement with the State of Florida under section 6 of the Act, which provides that any State law or regulation regarding the taking of an endangered species or threatened species may be more restrictive than the exemptions or permits provided for in this Act or in any regulation that implements the Act but not less restrictive than the prohibitions so defined. We are confident that the State of Florida, with whom we have partnered for many years on the conservation of this and other species, will ensure that these regulations will remain in place.

(41) *Comment:* Even though some habitat features important to Florida manatees may have improved over time (*e.g.,* restoration of some warm-water springs), the Service's assumptions or conclusions that habitat needed for manatees is safe and assured is unrealistic and is not based on the best available scientific data.

Response: We indicated in our proposed rule that efforts are being made to enhance and conserve important manatee habitat (including winter warm-water habitat, foraging areas, travel corridors, etc.) and noted that much work still needs to be done before the species can be removed from the List of Endangered and Threatened Species. Please see the Recovery Actions section of the preamble to this rule for more information.

(42) *Comment:* The Service disbanded its Florida Manatee Recovery Implementation Team and Warm Water Task Force. How does the Service intend to address continuing conservation needs, including the need to address the catastrophic future loss of critical, warm-water habitat?

Response: The Service plans to revise the Florida Manatee Recovery Plan and will convene a recovery team to facilitate that process. The Plan will identify conservation needs and the actions needed to address them. The loss of warm-water habitat will be addressed in the revised plan. The Service is working with FWC, the power industry, and others to address conservation needs, including the future loss of warm-water habitat.

(43) *Comment:* State of Florida statutes require Water Management Districts to set minimum flows at rates that protect the most sensitive species. The Districts have set flows in the past to protect endangered manatees. If manatees are no longer endangered, what will happen to important manatee springs like Three Sisters Springs where minimum flows have not been set?

Response: When this rule becomes effective, the West Indian manatee will remain protected under the Act as a threatened species. The Act's provisions will continue to be implemented to remove threats to this species. For example, the Service will continue to work with the FWC, the Water Management Districts, and others to ensure that minimum flows set for important manatee springs are adequate to protect wintering manatees. See Runge *et al.,* (2015, pp. 6–7) and the Recovery Actions section of this document for further information.

(44) *Comment:* One commenter noted that manatee enforcement in Florida is at an ''all-time low.'' Another

commenter observed that the number of manatees struck by watercraft and killed or rescued is at an ''all-time high.'' Commenters stated that the watercraft collision threat has not been controlled.

Response: Threats, including the threat of watercraft collisions, are being addressed in Florida. While record numbers of watercraft-related manatee deaths and rescues were reported in 2016, there is nothing to suggest that this is evidence of an increasing trend. Key demographic indicators characterize a growing manatee population even in the face of continuing mortality of this type. See Runge *et al.,* (2015, pp. 9–11) and Recovery Actions for further information.

(45) Comment: The Service signed an agreement in 2012 with the U.S. Army Corps of Engineers that provides the Service with the ability to allow illegal incidental take through consultation on the Corps permitting process. The take of manatees cannot be authorized and is detrimental to recovery efforts.

Response: The 2012 agreement with the Corps does not authorize the take of Florida manatees. The agreement requires that the Corps include in its permits conditions that, when followed, ensure that manatees are not taken by project-related construction activities. This requirement expedites the permitting process and provides predictability for permit applicants. Should the incidental take of one or more manatees occur as a result of a permitting action where the Service has concurred with an effects determination, the specific activity shall cease until the Corps and the Service jointly and cooperatively investigate the circumstances and make every effort to remedy the issue through avoidance, minimization, and/or other compensatory measures.

(46) *Comment:* If the Service is going to address the loss of power plant warm-water discharges, it must identify a funding source to cover the costs that will be incurred. This has not been done.

Response: The Service continues to work with and reach out to its manatee recovery partners to address the pending loss of warm water at Florida's power plants. The Service recently recommended that the Florida Department of Environmental Protection revise NPDES permits to include a funding mechanism to address the transition of manatees from power plants to other suitable areas.

(47) *Comment:* Manatee harassment by visitors to Crystal River continues to take place. More enforcement and criteria-based closure requirements are needed to protect manatees from harassment.

Response: The Service continues to refine measures to prevent manatee harassment by visitors to Crystal River and elsewhere. Criteria have been developed for potential closures at Three Sisters Springs. Additionally, the Kings Bay Manatee Refuge Rule provides for the closure of springs used by wintering manatees, as well as the expansion of sanctuary boundaries to accommodate increasing numbers of manatees. For more information, see the Kings Bay Manatee Refuge Rule (77 FR 15617, March 16, 2012) and the Draft Environmental Assessment, Three Sisters Springs Unit of Crystal River NWR (USFWS CRNWR 2015).

(48) *Comment:* Manatee habitat restoration efforts are taking place in Florida and some of these efforts are harassing manatees and indirectly causing harm to the environment. Communities engaged in restoration efforts must be required to use best management practices and comply with State and Federal regulations.

Response: The Service has not identified habitat restoration efforts as a threat to the long-term survival of the Florida manatee. We have, however, identified habitat loss and fragmentation as one of the most significant threats to manatees, and efforts to restore habitat are an important means to address this threat. In the United States, entities engaged in habitat restoration efforts must comply with all State and Federal permitting regulations, including permit conditions that prevent manatee harassment and protect water quality and the environment.

(49) *Comment:* Natural spring areas essential for the manatee's survival are threatened by numerous factors including diminishing spring flows, deteriorating water quality, and increasing human activities in and around spring areas.

Response: We acknowledge that these are concerns and have addressed them in our rule. See the Recovery Actions section of the preamble for further information.

(50) *Comment:* The Service should conduct an environmental impact study before any decision is made.

Response: We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), need not be prepared in connection with regulations pursuant to section 4(a) of the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** (48 FR 49244).

Comments on Topics That Apply to All Manatees

(51) *Comment:* The Act provides that a species may be determined to be ''endangered'' due to ''other natural or manmade factors affecting its continued existence.'' In addition to loss of habitat, disease, algal blooms, and watercraft fatalities, the West Indian manatee is also affected by land development activities, including, without limitation, the construction of artificial canal systems, dredging and filling, elimination of aquatic vegetation, construction of structures that can trap or crush manatees, and the placement of bulkheads below the ordinary high waterline. Moreover, fishing gear and contaminants present ongoing, yet in some cases, ''poorly understood'' risks to the West Indian manatee population. Until a plan is developed to protect the West Indian manatee from effects of land development and other risks to the West Indian manatee are more fully understood, the Atlantic Scientific Review Group recommends maintaining the current endangered status of the species.

Response: Plans have been developed and are in place to protect manatees from these activities. The Service has developed recovery plans for the Florida and Puerto Rico manatee populations and the United Nations Environment Programme has a conservation plan for the West Indian manatee. Both plans address these and other threats. In the United States, the Service evaluates land development projects that may impact the species under the consultation process set forth in Section 7 of the Act. For further information on Section 7, please refer to Recovery Actions and Available Conservation Measures in the preamble to this final rule.

(52) *Comment:* What happens to Potential Biological Removal (PBR) if the manatee is downlisted? How will a higher PBR affect your Section 7 consultation process for coastal development?

Response: PBR, as defined under the MMPA, means ''the maximum number of animals, not including natural mortalities that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population.'' The PBR level is the product of the minimum population estimate of the stock, one-half the maximum theoretical or estimated net productivity rate of the stock at a small population size, and a recovery factor of between 0.1 and 1.0.

This rule does not change how PBR is defined under the MMPA. Nevertheless, as a result of this rule, in PBR calculations for both Florida and Antillean stocks we expect to use a recovery factor for threatened species instead of the recovery factor for endangered species. The Service's use of PBR is limited to addressing takes associated with commercial fishing activities. However, known mortalities and serious injuries associated with these activities are nominal and should not be affected by this change. Further, because PBR is not used to address coastal development activities, there will be no effect on the Service's consultation process for these activities.

(53) *Comment:* A downlisting will lead to a reduction in the availability of funds and will make it more difficult to obtain funding needed to address the loss of warm-water habitat, enforcement, important research, and other conservation needs. FWS acknowledges that under the FMSA ''adequate funding could be problematic if downlisting occurs.'' In fact, an assumption of adequate funding underpins all of the assumptions in the model that relate to anthropogenic impacts. FWS states that ''as long as funding remains available, recovery actions would continue to be implemented, regulations enforced, and additional measures adopted as needs arise.'' Loss of funding would adversely affect development, implementation, and enforcement of management actions and plans.

Response: We acknowledge that loss of funding could be a concern; which is, in part, why the species meets the definition of a threatened species under the Act.

(54) *Comment:* One commenter noted that the Service has failed to propose critical habitat concurrently with its proposal to downlist the manatee across its range. When the FWS makes a listing determination (including downlisting), the Act requires the FWS to either designate critical habitat for the manatee or determine that such a designation is not prudent or determinable (16 U.S.C. 1533(a)(3)(A)(i)). Another commenter stated that the Service should assess the incremental economic impact of existing and proposed designations on critical habitat. The Miccosukee Tribe expressed concern that manatees and their habitat are at risk from increasing development without protections to critical habitat provided by the Act.

Response: Critical habitat has been designated for the West Indian manatee (41 FR 41914, September 24, 1976; corrected at 42 FR 47840, September 22, 1977; codified at 50 CFR 17.95(a)). The Act at 16 U.S.C. 1533(a)(3)(B) provides that the Service may, from time to time thereafter, revise the critical habitat designation, and that it must make findings on a petition to revise critical habitat submitted under the Administrative Procedure Act. *See* 16 U.S.C. 1533(b)(3)(D). The Service's January 12, 2010 (75 FR 1574), 12-month finding on a petition to revise critical habitat for the Florida manatee found that a revision to critical habitat is warranted but precluded because sufficient funds were not (and still are not) available due to higher priority actions such as court-ordered listing-related actions and judicially approved settlement agreements. Because of this, the existing critical habitat designation remains in effect.

(55) *Comment:* The Service has not adequately addressed cumulative impacts from continued development, increased vessel use, and ongoing water quality problems that threaten the aquatic habitats on which manatees depend for survival.

Response: Our five-factor analysis, under Summary of Factors Affecting the Species, above, assessed all known threats to the West Indian manatee. In our assessment, we reviewed several manatee population models (Castelblanco-Martínez *et al.,* 2012; Arriaga *et al.,* in Gómez *et al.,* 2012, entire, Runge presentation, 2016) that assessed the effects of threats individually and cumulatively. Threats can individually impact a species or its habitat or can work in concert with one another to cumulatively create conditions that may impact a species or its habitat beyond the scope of individual threats. See *Cumulative Effect of Threats* below.

(56) *Comment:* The Service has violated the Act by invoking its ''significant portion of range'' policy and relying on its range-wide threatened determination to avoid any analysis of whether the West Indian manatee is endangered in any significant portion of its range, contrary to the plain language of Section 3(6) of the Act, 16 U.S.C. 1532(6). FWS-cited data strongly suggest that one or more portions of the West Indian manatees' range merits analysis for significance.

Response: For our analysis, we followed the Service's final policy on ''Significant Portion of its Range'' (SPR) (79 FR 37578; July 1, 2014). This policy provides our interpretation of the phrase ''significant portion of the range'' in the Act's definitions of ''endangered species'' and ''threatened species''. The policy improves the implementation of the Act by providing a consistent and uniform standard interpretation of the phrase and its role in listing (and delisting and reclassification) determinations. The policy provides an interpretation and application of SPR that reflects a permissible reading of the law and minimizes undesirable policy outcomes, while fulfilling the conservation purposes of the Act. The final policy states ''that a portion of a species' range can be ''significant'' only if the species is not currently endangered or threatened *throughout all of its range*'' (emphasis added); furthermore, if a species is listed throughout its entire range, there can be no separate listings for portions of the species (the final policy defines ''significant'' such that a portion of the range cannot be significant if the species already warrants listing throughout all of its range). As this policy is applied, there will be no circumstance in which a species is threatened throughout all of its range *and* [emphasis added] endangered throughout an SPR. Based on our evaluation of the biology and current and potential threats to the West Indian manatee, we determined that the entire listed entity meets the definition of threatened. Accordingly, the SPR analysis concludes that the species should be listed as threatened and no further analysis is warranted.

This final policy reflects the Services' expert judgment as to the best way to interpret and apply ''significant portion of its range'' as that phrase appears in the Act. Because we conclude that the entire West Indian manatee should be listed as threatened, we do not analyze this species at a smaller geographic scale.

(57) *Comment:* Commenters stated that when the Service downlists the manatee, the Act's take prohibition no longer applies and, accordingly, if the Service believes that it should continue to regulate the take of the manatee (despite local and State regulations that prohibit take), the Service must follow additional procedures laid out in the Act. The Service states in the proposed rule to reclassify the manatee that the take prohibition in Section 9 of the Act will automatically apply to the manatee when it is reclassified as threatened. But the Act expressly limits Section 9 to endangered species because Congress recognized that the take prohibition imposes stringent limits on individuals and businesses that are only justified by the dire situations endangered species face. Likewise, the Service should consider the impacts of the downlisting on the continuing need for Manatee Protection Areas, which prohibit certain waterborne activities ''for the purpose of preventing the taking of manatees'' in coastal and inland waters in Florida.

Because the Act's take prohibition does not automatically apply to threatened species, the Service will need to determine anew whether Manatee Protection Areas are necessary and advisable.

Response: Take prohibitions for manatee do not change with this final rule. The same prohibitions are in place for the manatee as a threatened species that were in place when it was an endangered species through the Act's implementing regulations. Under section 9(a)(1) of the Act, all take prohibitions outlined in section 50 CFR 17.21 (except § 17.21(c)(5)) apply to threatened species through the regulations codified at 50 CFR 17.31 and 17.32. Although the Service has discretion to issue a species-specific 4(d) rule that could remove or modify take prohibitions from or for specific activities, we have not chosen to do so at this time for manatee. The Service believes the prohibitions and exceptions set out in 50 CFR 17.31 and 17.32 are most appropriate to address the particular conservation needs of the West Indian manatee at this time. Accordingly, protections in Florida's coastal and inland waters will not change with the reclassification of manatee to threatened status. Manatee Protection Areas (MPAs) have played a substantial role in manatee conservation and will be needed into the foreseeable future, and the designation of these areas will not be affected by the change in status. In addition, as mentioned in the response to Comment 40, the MMPA prohibits the ''take'' (*i.e.,* to harass, hunt, capture, kill, or attempt to harass, hunt, capture, or kill) of marine mammals. MPAs also play an important role in avoiding take under the MMPA.

(58) *Comment:* The overall lack of any cumulative analysis with respect to any or all of the relevant listing factors demonstrates that the FWS has not articulated a rational explanation to justify downlisting.

Response: In making our determination and in accordance with the definitions of an endangered vs. threatened species, the Service concluded that the West Indian manatee is not currently endangered but is likely to become endangered in the foreseeable future. In our review of the best available information, we did not find significant information that would lead us to believe that the cumulative effect of threats on the species warrants maintaining the West Indian manatee as an endangered species. Rather, the potential cumulative effects of threats on the West Indian manatee, in part, contribute to the species' threatened status (see *Cumulative Effects* section later in this rule).

Summary of Changes From the Proposed Rule

We made the following changes from the proposed rule:

- We updated the Population Size and Population Trends sections to include a ''Minimum Population Size'' column to Table 1, changed the column heading ''Population Estimate'' to ''Non-statistical Population Estimate,'' and provided additional information on the Castelblanco-Martínez *et al.,* (2012) publication.
- We revised the Recovery Actions section of the preamble to include information from a Manatee Core Biological Model (CBM) update and to include updates for the timeframes for establishing spring minimum flows.
- We expanded the introduction of the Summary of Factors Affecting the Species to further clarify the definitions of endangered and threatened.
- We included new information on threats and mortality under the Summary of Factors Affecting the Species section.
- We reviewed and incorporated, as appropriate, information from Coulson *et al.* 2001; Gómez *et al.* 2012; Galves *et al.* 2015; and a presentation on Manatee Core Biological Model updates in this rule. These references were contributed by commenters and/or became available in September 2016.
- We added a ''Cumulative Effects'' section to our Summary of Factors Affecting the Species section.
- We clarified in this rule why the West Indian manatee is no longer endangered but rather meets the definition of a threatened species.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Act requires us to determine by regulation whether ''any species is an endangered species or a threatened species because of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence'' (16 U.S.C. 1533(a)(1); hereafter, the section 4(a)(1) factors). Section 3 of the Act defines an ''endangered species'' as ''any species which is in danger of extinction throughout all or a significant portion of its range'' and a ''threatened species'' as one ''which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range'' (16 U.S.C. 1532(6), (20)).

The U.S. District Court for the District of Columbia noted that Congress included ''a temporal element to the distinction between the categories of endangered and threatened species'' in *re Polar Bear Endangered Species Act Listing and § 4(d) Rule Litigation,* 794 F. Supp. 2d 65, 89 n. 27. (D.D.C. 2011). Thus, we interpret an ''endangered species'' to be one that is presently in danger of extinction. A ''threatened species,'' on the other hand, is not presently in danger of extinction, but is likely to become so within the foreseeable future (*i.e.,* at a later time). In other words, the primary statutory difference between a threatened and endangered species is the timing of when a species may be in danger of extinction, either presently (endangered) or within the foreseeable future (threatened).

In making our downlisting determination, the foreseeable future must take into account the life history of the species, habitat characteristics, availability of data, particular threats under consideration, the ability to predict those threats, and the reliability of forecasts of changes in the species' status in response to the threats. See also ''The Meaning of 'Foreseeable Future' in Section 3(20) of the Endangered Species Act,'' (DOI 2009). Pursuant to M–37021 (DOI 2009), we identify a foreseeable future of 50 years for the West Indian manatee, which we believe can be predicted with reliability. Please see section entitled *Foreseeable Future*.

Thus, we used the best available scientific and commercial data for the West Indian manatee, including demographic parameters and section 4(a)(1) factors. We note that, for the Antillean subspecies, the best available scientific and commercial information relies in many cases upon expert opinion and anecdotal observations. In responding to the petition to downlist the West Indian manatee species and, after considering conservation efforts by States and foreign nations to protect the West Indian manatee as required under section 4(b)(1)(A), we proposed downlisting (80 FR 1000, February 6, 2016) based on the statutory definitions of endangered and threatened species. To make our final listing determinations, we reviewed all information provided during the 90-day public comment period and additional scientific and commercial data that became available since the publication of the proposed rule. See Summary of

Changes From Proposed Rule. However, this additional information merely supplemented, and did not differ significantly from, the information presented in the proposed rule. We received no significant new information that would cause us to change our listing determination (see the Comments and Summary of Changes from the Proposed Rule sections above). With this rule, we finalize our proposed listing determination.

The following analysis examines all factors currently affecting or that are likely to affect the West Indian manatee within the foreseeable future.

Factor A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

At the time of listing, resource managers were concerned about the effect of the loss of seagrass on manatees. Subsequently, it became apparent that habitat loss and fragmentation were significant concerns outside the United States. Within the southeastern U.S., the loss of manatee winter habitat has become a significant concern. Degradation and loss of manatee habitat occurs throughout its range (UNEP 2010, p. 12). Although the immediacy and the magnitude of this factor varies throughout the species' range, available manatee foraging habitat does not seem to be a limiting factor in most of the range countries, including Florida and Puerto Rico (Orth *et al.* 2006, p. 994; Drew *et al.* 2012, p. 13; Lefebvre *et al.* 2001, entire; UNEP 2010, entire). Still, manatee habitat degradation and loss remain a threat in most countries, and ongoing efforts to address these threats remains a recovery priority (Castelblanco *et al.* 2012, p. 142).

Some countries have been able to document manatee habitat loss effects, while other countries do not have site-specific information available to quantify the severity and/or frequency of this threat on manatees. For example, in Mexico, loss of manatees from certain areas has been attributed to, among other factors, the construction of a dam along a river (Colmenero-Rolón and Hoz-Zavala 1986, in UNEP 2010, p. 59), while significant manatee habitat modification has affected the number of animals along the coast of Veracruz (Serrano *et al.* 2007, p. 109). Other important manatee habitat in Belize such as Turneffe atoll is also affected by unsustainable fishing, mangrove clearing, overdevelopment, and dredging (Edwards 2014, entire).

In Honduras, manatee abundance declined, in part, because of habitat degradation (Cerrato 1993, in Lefebvre *et al.* 2001, p. 440), while in Costa Rica, habitat modification activities such as logging and agriculture have increased sedimentation in rivers and lagoons, making it difficult for manatees to access suitable habitat in the Tortuguero River system (Smethurst and Nietschmann 1999, in Lefebvre *et al.* 2001, p. 442). In Panama, manatee distribution is apparently fragmented by discontinuous and likely depleted habitat (Lefebvre *et al.* 2001, p. 442).

Although threats continue, there are recovery efforts being made to protect the manatee against threats posed by habitat loss or modification in many range countries and in the areas of U.S. jurisdiction. In Belize, three protected areas were created specifically to protect critical manatee habitat, and more than 43 percent of the country's protected areas are within the coastal zone (UNEP 2010, p. 24). Mexico has designated significant special manatee protection areas (UNEP 2010, p. 60), and Trinidad protected the Nariva Swamp, the most important manatee habitat in that country (UNEP 2010, p. 77). Although most countries within the species' range outside of the United States continue to provide suitable manatee habitat, habitat degradation and loss remains a threat requiring ongoing recovery efforts.

The Service's 2007 5-year review identified specific threats including loss of seagrass due to marine construction activities (extent unknown), propeller scarring and anchoring (magnitude unknown), and oil spills; loss of freshwater due to damming and competing uses; and increasing coastal commercial and recreational activities (USFWS 2007, pp. 30–31). Human activities that result in the loss of seagrass include dredging, fishing, anchoring, eutrophication, siltation, and coastal development (Duarte 2002, p. 194; Orth *et al.* 2006, p. 991; PRDNER 2008, entire; PRDNER 2012, entire).

Since the 2007 5-year review, habitat effects including threats to seagrass habitat have been quantitatively assessed in Puerto Rico. The PRDNER has been gathering new relevant information documented in its two reports entitled *Evaluation of Recreational Boating Anchor Damage on Coral Reefs and Seagrass Beds* (PRDNER 2008, entire; PRDNER 2012, entire). The report identified the east, south, and west coasts of the island as the areas with major impacts on seagrass beds caused by vessel propellers, indiscriminate anchorage, and poor navigation skills. According to the reports, the areas with major impacts of severe magnitude were those on the south-central coast, including high manatee use areas in the municipalities of Guayama, Salinas and Guayanilla, among others. The PRDNER (2008, 2012, p. 6) also describes that sea grasses are being severely impacted by both the scarring actions of motor boat propellers and the scouring action of jet ski traffic in shallow waters. In addition, small to mid-size boat owners prefer to visit near-shore areas, which have contributed to the decrease in seagrass density and an increment in the fragmentation of this habitat (PRDNER 2008, 2012, p. 7).

Although anthropogenic activities that result in the loss of seagrass such as dredging, anchoring, effects from coastal development, propeller scarring, boat groundings, and inappropriate recreational activities occur in Puerto Rico, seagrass abundance is not considered a limiting factor for the current Antillean manatee population of the Island (Drew *et al.* 2012, p. 13). It would be expected that a significant decrease of this resource could cause stress to the manatee population. However, no data is available to support estimates of how much seagrass is needed to sustain a larger manatee population (Bonde *et al.* 2004, p. 258). Based on the present availability of seagrass habitat in Puerto Rico, the Service believes the severity of the threat of degraded and or decreased seagrass habitat is low and there is no indication that potential foraging limitations or specialization are decreasing manatee fitness or causing manatee mortalities in Puerto Rico.

To offset these threats in Puerto Rico, a wide range of conservation efforts are ongoing (see Recovery and Recovery Actions). These include the collective efforts of the Service, the U.S. Army Corps of Engineers, the PRDNER, the National Oceanic and Atmospheric Administration (NOAA), the U.S. Coast Guard, and others working to avoid, minimize, and mitigate project impacts on manatee habitat. The development and implementation of no-wake areas, marked navigation channels, boat exclusion areas, and standardized construction conditions for marinas and boat ramps are a few of the efforts making a positive impact on maintaining and protecting important manatee habitat (see Recovery and Recovery Plan Implementation sections).

Manatees require sources of fresh water for daily drinking and do not appear to exhibit a preference for natural over anthropogenic freshwater resources (Slone *et al.* 2006, p. 3). Sources of freshwater are currently not considered limiting in Puerto Rico and include the mouths of streams and

rivers, coastal groundwater springs, and even industrial wastewater outflows (*e.g.,* wastewater treatment plants, hydroelectric power plants). At this time, the lack and/or degradation of fresh water is considered a low-level threat in Puerto Rico. There is no indication that manatees are being affected by a lack of freshwater sources, even during the 2015 severe drought and especially since it is possible for manatees to drink from several sources. However, the potential impact of poor water quality on the manatee population is unknown. The Service will continue to assess and work with others towards maintenance and potential enhancement of manatee freshwater drinking sources.

Within the southeastern United States, the potential loss of warm water at power plants and natural, warm-water springs used by wintering manatees is identified as a significant threat (USFWS 2007, entire; Laist and Reynolds 2005 a, b, entire, and (USFWS 2001, entire). Natural springs are threatened by potential reductions in flow and water quality (due to unsustainable water withdrawals combined with severe droughts) and by factors such as siltation, disturbance caused by recreational activities, and others that affect manatee access and use of the springs (Florida Springs Task Force 2000, p. 13). Power plants, which provide winter refuges for a majority of the Florida manatee population, are not permanent reliable sources of warm water. In the past, some industrial sources of warm water have been eliminated due to plant obsolescence, environmental permitting requirements, economic pressures, and other factors (USFWS 2000, entire). Experience with disruptions at some sites has shown that some manatees can adapt to minor changes at these sites; during temporary power plant shutdowns, manatees have been observed to use less preferred nearby sites. In other cases, manatees have died when thermal discharges have been eliminated due to behavioral persistence or site fidelity (USFWS 2000, entire).

The current network of power plant sites will likely endure for another 40 years or so (Laist *et al.* 2013, p. 9). We do not know for sure if the plants will be replaced or eliminated at the end of this time period, but the likelihood is that the power plants will close (Laist and Reynolds 2005b, p. 281). We also do not know how manatees would respond if some sites are lost, since past modifications or changes to power plant sites have resulted in variable responses from manatees. If power plant outflows are lost, manatees would rely on remaining springs in the upper St. Johns River and northwest Florida regions and on Warm Mineral Springs in southwest Florida, passive thermal basins, and warm ambient waters in southernmost Florida. The loss of certain warm-water sites potentially could cause a change in Atlantic coast abundance and distribution of manatees because there are no natural springs on the Atlantic coast north of the St. John's River (Laist and Reynolds 2005b, p. 287).

Florida's springs have seen drastic declines in flows and water quality, and many springs have been altered (dammed, silted in, and otherwise obstructed) to the point that they are no longer accessible to manatees (Florida Springs Task Force 2001, p. 4; Laist and Reynolds 2005b, p. 287; Taylor 2006, pp. 5–6). Flow declines are largely attributable to demands on aquifers (spring recharge areas) for potable water used for drinking, irrigation, and other uses (Marella 2014, pp. 1–2). Declining flows provide less usable water for wintering manatees. Declines in water quality (*e.g.,* increased nitrates) can promote the growth of undesirable alga, such as *Lyngbya* sp., which can cover and smother food plants used by wintering manatees (Florida Springs Task Force 2001, pp. 12, 26). Notable springs largely inaccessible to manatees due to damming include springs in the Ocklawaha and Withlacoochee river systems. Springs that have silted in include Manatee and Fanning springs, Warm Mineral Spring, Weeki Wachee Spring, and others (Taylor 2006, pp. 5, 8).

In the case of Manatee, Fanning, and Weeki Wachee springs, restoration efforts have removed sand bars and other obstructions, making these sites once again accessible to manatees (The Nature Conservancy 2015). See: *http://www.nature.org/ourinitiatives/regions/northamerica/unitedstates/florida/howwework/saving-manatees-through-springs-restoration.xml.* Also, Marella (2014, p. 1) noted declining demands on central Florida aquifers due to increased rainfall, declining agricultural demands, use of re-use water, and other water conservation measures, suggesting that spring flows used by manatees can be maintained. Chapter 62–42, Florida Administrative Code, requires that minimum flow levels be set for Florida waterbodies. Set flow levels require that measures be taken should flows drop below statutorily adopted levels, thus insuring adequate flows. Minimum flows have been set for six springs that are important to wintering manatees. Flow levels must be identified for the Crystal River springs complex and other important springs.

In the southeastern United States, a wide range of conservation efforts identified in the 2007 5-year Review are continuing (USFWS 2007, pp. 17–18; see also Recovery and Recovery Plan Implementation discussion above). Service efforts in cooperation and coordination with State and industry partners are ongoing to minimize any future manatee losses from industrial site reductions or closures by seeking short-term alternatives and long-term sustainable options for supporting manatees without the reliance on industrial warm-water sources. Spring studies and on-the-ground restorations seek to restore flows and access to existing natural springs. Habitat degradation and loss from natural and human-related causes are being addressed through collective efforts to improve overall water quality, minimize construction-related impacts, and minimize loss of seagrass due to prop scarring. Efforts to replant areas devoid of seagrass are showing success in restoring lost manatee foraging habitat (van Katwijk *et al.* 2016, p. 572).

Summary of Factor A: In Florida and Puerto Rico, the manatee has not experienced any curtailment of its range; however, a concern continues to be the loss of warm water habitat. Outside of the U.S. habitat loss, fragmentation, and degradation continue to be a concern for manatees as well. There have been substantial improvements due to regulatory mechanisms in place towards addressing habitat threats since listing. However, these factors still threaten the West Indian manatee but not to the magnitude that currently places the species in danger of extinction, especially given the availability of suitable habitat throughout the species' range. In view of increasing human populations and associated development within the range of the species, it is reasonable to predict that these threats will continue within the foreseeable future of 50 years. Please see section entitled *Foreseeable Future.* We will continue to evaluate projects in areas of U.S. jurisdiction (Puerto Rico and areas of the continental United States) to benefit habitat for the West Indian manatee and make recommendations to avoid and minimize impacts to manatee habitat. For West Indian manatees in the continental United States, ensuring the continued availability of warm-water refugia sites is a critical need related to this factor.

In the discussion above (and in supplemental documents), we describe progress with local, county, city, and State partners to maintain minimum

flows and restore habitat at sites where we believe it will help address this habitat need for the species. For areas outside U.S. jurisdiction, we have documented examples of habitat destruction, modification, and fragmentation that have impacted West Indian manatees, by damming rivers and destroying estuaries. There are also a number of positive examples of manatee protection areas that will continue to provide long-term suitable manatee habitat. The Service, led by our International Affairs Program, will continue to work together with other countries towards manatee habitat conservation.

Factor B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Since the manatee was originally listed, information indicates that overutilization, particularly poaching, occurs to a lesser extent now but continues to affect manatees. Throughout the range of the species, manatees are used for a variety of purposes. Outside the United States, manatees have been hunted and poached to supply meat and other commodities. Recreationally, people seek out opportunities to view manatees through commercial ecotour operators or on their own. There are numerous scientific studies being conducted on captive and wild manatees, including studies of specimens salvaged from carcasses. The public is educated about manatees through a variety of media, such as videos and photographs, including rehabilitating manatees in captivity.

Poaching is hypothesized no longer to occur in a few regions, has been reduced in others, and is still common in others (UNEP 2010, entire; Marsh *et al.* 2011, p. 386). A number of recent poaching events and reports are a concern (Alvarez-Alemán, *et al.,* No Date (ND), retrieved 2017 from: *http://sea2shore.org/focal-species/manatees/antillean-manatee-conservation-in-cuba/;* World Atlas, ND, Retrieved 2017 from: *http://www.worldatlas.com/articles/threatened-mammals-of-guatemala.html;* Grattan 2016, retrieved 2017 from *http://latincorrespondent.com/2016/02/20-endangered-manatees-slaughtered-in-colombia/;* Rodríguez Mega 2016, retrieved 2017 from *https://www.worldwildlife.org/magazine/issues/summer-2016/articles/eyes-on-the-water-in-belize;* Tejo and Maria 2016, retrieved 2017 from *http://dukespace.lib.duke.edu/dspace/handle/10161/12872*). Poaching has been responsible for past declining numbers throughout much of the Antillean subspecies' range (Thornback and Jenkins 1982, in Lefebvre *et al.* 2001, p. 426) (in 17 of 20 range countries). For example, in Guadeloupe (French Antilles), the local manatee population was hunted to extinction by the early 1900s (Marsh *et al.* 2011, p. 429). In Honduras, manatees are still actively poached on an opportunistic basis in La Mosquita (González-Socoloske *et al.* 2011, p. 129). Depending on certain social and economic factors, current poaching rates in northern Nicaragua vary from year to year (Self-Sullivan and Mignucci-Giannoni 2012, p. 44). Other manatee products include oil, bones, and hide (Lefebvre *et al.* 2001, p. 426; Marsh *et al.* 2011, p. 264; Self-Sullivan and Mignucci-Giannoni 2012, pp. 42–45).

Because of their low reproductive rates (Lefebvre *et al.* 2001, p. 12), poaching continues to pose a serious threat to some manatee populations, especially in those areas where few manatees remain. As of 2009, although manatee poaching in Colombia still occurred in specific areas and seasons (Castelblanco-Martínez 2009, p. 239); it is less common than in the past (UNEP 2010, p. 30). Marsh (2011, p. 269) and other more current reports (Alvarez-Alemán, et al., No Date (ND), retrieved 2017 from: *http://sea2shore.org/focal-species/manatees/antillean-manatee-conservation-in-cuba/;* World Atlas, ND, Retrieved 2017 from: *http://www.worldatlas.com/articles/threatened-mammals-of-guatemala.html;* Grattan 2016, retrieved 2017 from *http://latincorrespondent.com/2016/02/20-endangered-manatees-slaughtered-in-colombia/;* Rodríguez Mega 2016, retrieved 2017 from: *https://www.worldwildlife.org/magazine/issues/summer-2016/articles/eyes-on-the-water-in-belize;* Tejo and Maria 2016, retrieved 2017 from *http://dukespace.lib.duke.edu/dspace/handle/10161/12872*) identifies poaching as a threat to manatees in Belize, Brazil, Colombia, Costa Rica, Cuba, Dominican Republic, French Guiana, Guatemala, Haiti, Honduras, Mexico, Suriname, Trinidad and Tobago, and Venezuela. Poaching is no longer a threat in the mainland United States and Puerto Rico (Marsh 2011, p. 269). Foreign governments have instituted regulations to address this threat (see Factor D discussion). We continue to pursue initiatives with other countries that encourage a ban on poaching and hunting of manatees.

In the southeastern United States and other areas where people view manatees, numerous measures are in place to prevent the take of manatees due to disturbance of viewing-related harassment. Well-enforced sanctuaries keep people out of sensitive manatee habitats (*i.e.,* warm-water sites), educated tour guides ensure that their customers do not harass manatees, and many educational programs prescribe appropriate measures to take when in the presence of manatees. For example, in 1992, manatees stopped visiting suitable manatee habitat (Swallow Caye, Belize) after swim-with-the-manatee programs were allowed without proper control (Auil 1998, p. 12). Community groups and a local conservation organization helped to declare the area a wildlife sanctuary in 2002. The area is currently co-managed between the Belize Forest Department and a local conservation organization (UNEP 2010, p. 23), and manatees have returned to the area.

In Puerto Rico, harassment of manatees by kayak users and swimmers has been reported in several popular beach and coastal recreational areas. In addition, harassment related to speedboat races in manatee areas has increased. In 2014 alone, the Service reviewed 12 permit applications for speed boat races in Puerto Rico, several of them in areas with high concentrations of manatees. However, to date there have been no reported injuries or deaths of manatees caused by speedboat races. Consultation with the Service under Section 7 of the Act has served to implement specific conservation measures during marine events such as boat races (see Recovery and Recovery Implementation and Available Conservation Measures sections). The U.S. Coast Guard consistently consults with the Service on marine event applications and readily includes manatee conservation measures when applicable. In addition, government agencies and local nongovernmental organizations have implemented education and outreach strategies to ensure that manatee harassment is avoided and minimized.

Education and research programs involving manatees are designed to ensure that manatees are neither adversely affected nor overutilized. Examples include outreach efforts used to minimize manatee harassment in Crystal River, Florida, and the Service's Act/MMPA marine mammal scientific research permitting program, which limits the potential negative effects that research activities have on manatees.

Summary of Factor B: In summary, overutilization (particularly poaching and hunting) occurs to a lesser extent than when the species was originally listed but continues to occur with

varying frequency from absent to common throughout the species' range due to regulatory measures (see detailed discussion in Factor D section) that have been implemented to protect manatees. Efforts are in place to address remaining concerns and are proving effective in a good portion of the West Indian manatee's range. The manatee's situation has improved since it was originally listed; poaching is not a current threat in the southeastern United States (including Puerto Rico) and has been reduced in other countries. However, the threat of poaching in some range countries where poaching is poorly controlled will likely continue within the foreseeable future which we determined to be 50 years (please see section entitled Foreseeable Future).

Factor C. Disease or Predation

At the time of listing, neither disease nor predation were identified as concerns for manatees. While numerous infectious disease agents and parasites have been reported in sirenians (manatees and dugongs), there have been no reports of major West Indian manatee mortality events caused by disease or parasites (Marsh *et al.* 2011, p. 294).

However, disease-related deaths are known to occur in West Indian manatees. Recent cases of toxoplasmosis are a concern in Puerto Rico (Bossart *et al.* 2012, p. 139). Marsh *et al.* (2011, p. 294) stated that the importance of disease as a threat to the manatee is unknown. In spite of concerns about the manatee's ability to rebound from a population crash should an epizootic event occur, the impact of disease on population viability remains unknown (Sulzner *et al.* 2012, p. 1). Marsh *et al.* 2011 (p. 294) speculated that the Florida subspecies appears to have a robust immune system that safeguards them from significant disease outbreaks. We suspect this to be also true for the Antillean subspecies because we have no documented disease outbreaks.

Mou Sue *et al.* (1990) described rare attacks by sharks on manatees in Panama (p. 239). Reported instances of sharks and alligators feeding on manatees are extremely rare (Marsh *et al.* 2011, p. 239).

Summary of Factor C: We do not have information to indicate that disease and predation is now or will be a significant factor in the foreseeable future. However, because of the long lifespan of this mammal, we will continue to monitor disease and predation of manatees with all of our conservation partners.

Factor D. The Inadequacy of Existing Regulatory Mechanisms

Since the manatee was originally listed in 1967, regulatory mechanisms have been established throughout the West Indian manatee's range with varying degrees of effectiveness. At the time of the manatee's original listing, there were very few regulatory mechanisms in place. Currently, regulatory mechanisms include, but are not limited to, specific laws and regulations that prohibit specific and general human activities that impact manatees and their habitat, and the establishment of long-term conservation protection measures at key locations throughout the manatee's range. These include those efforts being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect manatees. The extent and overall effectiveness of these regulatory mechanisms varies widely from country to country. Enforcement and compliance with these measures, as well as the need for additional efforts in some countries, continues to be a concern and will require additional cooperative efforts into the foreseeable future. In the United States, Florida county manatee protection plans (MPPs) have improved the status of manatees.

Outside the United States, West Indian manatees are protected in most countries by a combination of national and international treaties and agreements as listed in Table 4 in UNEP (2010, p. 14), in Lefebvre *et al.* (2001, entire), and Table 4.2 in Self-Sullivan and Mignucci-Giannoni (2012, p. 41). See Supplemental Document 3 in Docket No. FWS–R4–ES–2015–0178. Countries within the range of the Antillean manatee protect the manatee by national legislation (UNEP 2010, Table 4). For example, in the Bahamas, manatees are protected under the Wild Animals Protection Act (Chapter 248, 21 of 1968 E.L.A.O. 1974), which prohibits the taking or capture of any wild animal (Government of the Bahamas 2004). In 2005, the Bahamian Government also created the Marine Mammal Protection Act (No. 12), which monitors and regulates human interactions with marine mammals. The Act prohibits taking, selling, or harassing any marine mammal (Government of the Bahamas 2006). As another example, the Manatee Protection Ordinance (1933–1936) provided the first protective legislation for the species in Belize. In 1981, manatees in Belize were included as an endangered species in the Wildlife Protection Act No. 4 of the Forest Department. The Act prohibits the killing, taking, or molesting of manatees, as well as possession and sale of any part of any manatee (Auil 1998, pp. 29–30).

The West Indian manatee is listed in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). CITES (see *www.cites.org*) is an international agreement through which member countries work together to protect against over-exploitation of animal and plant species found in international trade. Commercial trade in wild-caught specimens of these Appendix I species is illegal (permitted only in exceptional licensed circumstances). The Service reviewed the CITES trade database for the West Indian manatee, which currently has information from 1977 to 2013, and found that trade does not pose a threat to the West Indian manatee at this time. The manatee and its habitat are also protected by the Cartagena Convention Protocol Concerning Specially Protected Areas and Wildlife for the protection and development of the marine environment of the Wider Caribbean Region (SPAW Protocol). The SPAW Protocol, approved in 1990, prohibits the possession, taking, killing, and commercial trade of any sirenian species (UNEP 2010, p. 14).

Although manatees outside of the southeastern United States are legally protected by these and other mechanisms, full implementation of these international and local laws is lacking, especially given limited funding and understaffed law enforcement agencies (UNEP 2010, p. 89).

Marsh *et al.* (2011, p. 387) indicated that enforcement remains a critical issue for West Indian manatees. Outside the United States, mechanisms are needed to allow existing West Indian manatee protection laws to work as intended. Despite all of the existing regulations for manatees, illegal poaching and destruction of habitat continue (Self-Sullivan and Mignucci-Giannoni 2012, p. 41). Enforcement of conservation policies varies in different coastal regions; in some regions, poaching is common and in areas with a government presence, enforcement efforts are thought to be significant (Self-Sullivan and Mignucci-Giannoni 2012, p. 45).

In the United States, in addition to being listed under the Act, the West Indian manatee is further considered a depleted stock under the Marine Mammal Protection Act (see greater detail just below; MMPA, 16 U.S.C. 1361 *et seq.;* Previous Federal Actions section, and Supplemental Document 2 in Docket No. FWS–R4–ES–2015–0178),

and is also taken into consideration when addressing actions under the Clean Water Act and the Fish and Wildlife Coordination Act. The MMPA has contributed to the improvement of the status of the manatee in part through its general moratorium on the taking and importation of marine mammals and their products, with some exemptions *(e.g.,* Alaska Native subsistence purposes) and exceptions to the prohibitions *(e.g.,* for scientific research, enhancement of the species, and unintentional incidental take coincident with conducting lawful activities).

''Take'' is defined under the MMPA as ''harass, hunt, capture, or kill, or attempt to harass, hunt, capture or kill.'' The term ''harassment'' means ''any act of pursuit, torment, or annoyance which has the potential to injure a marine mammal or marine mammal stock in the wild'' (Level A harassment), or ''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).

Under the MMPA, any marine mammal species or population stock that is listed as an endangered or a threatened species under the Act is considered by definition ''depleted'' and managed as such. Furthermore, a marine mammal stock that is listed under the Act is considered a ''strategic stock'' for purposes of commercial fishery considerations. Neither of these categorizations change with the reclassification of the West Indian manatee from endangered to threatened. Both the Florida and Puerto Rico stocks will remain depleted and strategic under the MMPA.

Title II of the MMPA established the Marine Mammal Commission (Commission), an independent agency of the U.S. Government, to review and make recommendations on the marine mammal policies, programs, and actions being carried out by Federal regulatory agencies related to implementation of the MMPA. The Service coordinates and works with the Commission in order to provide the best management practices for marine mammals.

Within the southeastern United States and Puerto Rico, the West Indian manatee also receives protection by most State and Territorial agencies, and will continue to receive protection as a threatened species. In Florida, the manatee is protected by the Florida Manatee Sanctuary Act (FMSA), which established Florida as a sanctuary for manatees. This designation protects manatees from injury, disturbance, harassment, and harm in the waters of Florida, and provides for the designation and enforcement of manatee protection zones and has helped to improve the status of the species. However, Florida statutes state that, ''[w]hen the federal and state governments remove the manatee from status as an endangered or threatened species, the annual allocation may be reduced'' (Florida Manatee Sanctuary Act (FMSA) Chap. 379.2431(2)(u)(4)(c)), suggesting that adequate funding could be reduced after downlisting. Florida laws also provide a regulatory basis to protect habitat and spring flows (Florida Water Resources Act).

In Georgia, West Indian manatees are listed as endangered under the Georgia Wildlife Act of 1973 (O.C.G.A. sections 22–3–130) which prohibits the capture, killing, or selling of protected species and protects the habitat of these species on public lands. In 1999, the Commonwealth of Puerto Rico approved the Law No. 241, known as the New Wildlife Law of Puerto Rico (*Nueva Ley de Vida Silvestre de Puerto Rico*). The purpose of this law is to protect, conserve, and enhance both native and migratory wildlife species, declare to be the property of Puerto Rico all wildlife species within its jurisdiction, and regulate permits, hunting activities, and exotic species, among other actions. In 2004, the PRDNER approved Regulation 6766 to regulate the management of threatened and endangered species in Puerto Rico (*Reglamento 6766—Reglamento para Regir el Manejo de las Especies Vulnerables y en Peligro de Extinción en el Estado Libre Asociado de Puerto Rico).* In particular, the New Wildlife Law of Puerto Rico of 1999 and its regulations provide for severe fines for any activities that affect Puerto Rico's endangered species, including the Antillean manatee. These laws similarly prohibit the capture, killing, take, or selling of protected species.

Also, the Navigation and Aquatic Safety Law for the Commonwealth of Puerto Rico (Law 430) was implemented in year 2000 and allows for the designation and enforcement of watercraft speed zones for the protection of wildlife and coastal resources (PRDNER 2000). However, in Puerto Rico and Florida, despite protections, watercraft collisions continue to negatively impact manatees (see Factor E). The PRDNER has indicated that current speed regulatory buoys are ineffective, in part because regulations do not identify the perimeter or area that each buoy regulates (Jiménez-Marrero 2015, pers. comm.). Thus, emphasis has been given to public education and signage in coastal areas to further reduce manatee mortality.

In addition, there are numerous other manatee protection laws and regulations in place in other States within the United States. These are detailed in a table entitled ''Existing International, Federal, and State Regulatory Mechanisms,'' see ''Supplemental Document 2'' in Docket No FWS–R4–ES–2015–0178 or *http://www.fws.gov/northflorida* and *http://www.fws.gov/caribbean/es.* This table shows an extensive list of existing regulatory mechanisms in place for the West Indian manatee; many have been instituted, revised, or improved to better protect the manatee.

Based on population growth and stability described earlier in this rule, the above-described regulatory mechanisms in place have contributed towards growth in the West Indian manatee population in the United States and provided protection for their habitat as needed. These existing regulatory mechanisms will remain in effect when the species is reclassified to threatened. The West Indian manatee in the United States will remain protected as a threatened species under the Act, and as a depleted species under the MMPA. As long as funding remains available, recovery actions would continue to be implemented, regulations enforced, and additional measures adopted as needs arise. State and Federal agencies would continue to coordinate on the implementation of manatee conservation measures.

Summary of Factor D: In summary, regulatory mechanisms implemented since the manatee's listing, such as state and foreign country protections, have ameliorated some of the factors affecting manatees. However, challenges in the enforcement of regulatory mechanisms remain and there are still outstanding threats to the species. When this rule becomes effective and the species is reclassified to threatened, regulatory mechanisms will remain in place under the Act and will continue to provide legal protections to the species. CITES and MMPA protections will also remain in place. We will continue to maintain our relationships with local, State, and foreign governments to encourage the use of regulatory mechanisms to support the recovery of manatees.

Factor E. Other Natural or Manmade Factors Affecting Its Continued Existence

At the time of listing in 1967, one of the primary factors that led to its federally-protected status was watercraft collisions with manatees. Since 1967, several regulatory measures have been

established to help address this concern which are discussed in detail below. In addition, since manatees have been protected, studies and monitoring have revealed that current factors that may affect West Indian manatees include: Human-related interactions, such as watercraft collisions, harassment, fishing gear entanglement, exposure to contaminants, and naturally occurring phenomena such as harmful algal blooms, exposure to the cold, loss of genetic diversity, effects of climate change, and tropical storms and hurricanes. In 2007, the Service considered watercraft collisions to be the most significant factor affecting manatees in the United States (USFWS 2007, pp. 32–33). We provide summaries of other natural and manmade factors below:

Watercraft—Watercraft collisions that kill or injure manatees are a threat in some range countries outside the United States. However, current information on the effects of boat traffic on manatees does not exist for most range countries outside the United States. In some countries such as Belize, watercraft collisions are the predominant cause of death and are increasing (Auil and Valentine 2004, in UNEP 2010, p. 22; Galves *et al.* 2015, entire). As the number of registered boats has increased significantly since the mid-1990s, manatees are most vulnerable to collisions in the waters near Belize City (Auil 1998, in UNEP 2010, p. 22; Galves *et al.* 2015, entire). Motorboats are becoming more abundant and popular in Guatemala, and watercraft traffic and speed are not regulated even within protected areas (UNEP 2010, pp. 45–46). An aquatic transportation system with high-powered engines has increased boat transit in one of the most important manatee habitat areas in Panama (UNEP 2010, p. 66). Increased boating activities in Brazil have resulted in both lethal collisions with manatees and disruption of manatee behavior (Self-Sullivan and Mignucci-Giannoni 2012, p. 43).

Within the United States, watercraft-related deaths have been identified as the most significant anthropogenic threat to manatees in both Florida and Puerto Rico. In Puerto Rico, 34 years of manatee mortality data from 1980 to 2014 indicate that a total of 37 manatees have died due to watercraft (Mignucci *et al.* 2000, p. 192; Mignucci-Giannoni 2006, p. 2; PRDNER 2015, unpubl. data). This number represents approximately 15 percent of the total known mortality cases during that time (37 out of 242) or an average of 1.1 manatees per year. Although 37 deaths may be considered a low number, it can be argued that the percentage of watercraft-related causes of death may be somewhat underestimated for three reasons. First, for the majority of the manatee mortality cases in Puerto Rico, the cause of death is deemed undetermined (38 percent, 92 out of 242), mostly because carcasses are too decomposed when found and a cause of death cannot be determined, so it may be that many of these deaths are also watercraft-related. Second, watercraft-related effects that may cause a mother and calf to separate will go undetected, as it would be challenging to find evidence of such an event. The number of dependent calf deaths in Puerto Rico for the past 34 years is 55 calves (22.6 percent, 55 out of 242) or an average of 1.6 manatee calves per year. The majority of the manatees rescued for rehabilitation in Puerto Rico are calves. Lastly, it is assumed that not all carcasses are recovered, so there may be additional undocumented deaths caused by watercraft.

However, carcass salvage numbers for Puerto Rico indicate that the number of watercraft-related deaths is low, and the population is believed to remain stable (see Population Size and Population Trends sections) in spite of these numbers. As boat use in Puerto Rico has increased in number and distribution (PRDNER 2012, p. 3), and with no State or Federal MPAs yet established, one may expect an increase in watercraft-related conflicts. Still, manatee carcass totals for Puerto Rico have exceeded 10 or more only six times over 34 years and average approximately 7 per year (Mignucci *et al.* 2000, p. 192; Mignucci-Giannoni 2006, p. 2; PRDNER Manatee Stranding Reports 2015, unpubl. data). In addition, calf numbers documented in the most recent aerial surveys indicate the population is reproducing well, with a record high of 23 calves counted in December 2013 (see Population Size section). As the species continues to move towards recovery, the Service will continue to address and make improvements towards avoiding and further reducing watercraft-related deaths or impacts.

In Florida, a manatee carcass salvage program, started in 1974, collected and examined manatee carcasses to determine cause of death. This program identified watercraft collisions with manatees as a primary cause of human-related manatee mortality. The recent status review and threats analysis shows that watercraft-related mortality remains the single largest threat in Florida to the West Indian manatee (O'Shea *et al.* 1985, entire; Ackerman *et al.* 1995, entire; Wright *et al.* 1995, entire; Deutsch *et al.* 2002, entire; Lightsey *et al.* 2006, entire; Rommel *et al.* 2007, entire, Runge *et al.* 2015, p. 16). Runge *et al.* (2015, p. 20) observed that watercraft-related mortality makes the largest contribution to the risk of extinction; full removal of this single threat would reduce the risk of extinction to near negligible levels. Mortality data from FWCs Manatee Carcass Salvage Program and other sources describe numbers of watercraft-related deaths, general areas where deaths occur, trauma, and other parameters (O'Shea *et al.* 1985, entire; Ackerman *et al.* 1995, entire; Wright *et al.* 1995, entire; Deutsch *et al.* 2002, entire; Lightsey *et al.* 2006, entire; Rommel *et al.* 2007, entire).

Over the past 5 years, more than 80 manatees have died from watercraft-related incidents each year. The highest year on record was 2009, when 97 manatees were killed in collisions with boats. The Manatee Individual Photo-identification System (1978 to present) identifies more than 3,000 Florida manatees by scar patterns mostly caused by boats, and most catalogued manatees have more than one scar pattern, indicative of multiple boat strikes. A cursory review of boat strike frequency suggested that some manatees are struck and injured by boats twice a year or more (O'Shea *et al.* 2001, pp. 33–35).

Federal, State, and local speed zones are established in 26 Florida counties. In Brevard and Lee Counties, where watercraft-related mortality is among the highest reported, speed zone regulations were substantially revised and areas posted to improve manatee protection in the early 2000s. Since 2004, the FWC has approved new manatee protection rules for three counties in Tampa Bay and reviewed and updated speed zones in Sarasota, Broward, Charlotte, Lee, and Duval Counties. In October 2005, the Hillsborough County Commission adopted mandatory manatee protection slow-speed zones in the Cockroach Bay Aquatic Preserve that previously had been voluntary. In 2012, speed zones were established in the Intracoastal Waterway in Flagler County. In addition, of the 13 counties identified in 1989 as in need of State-approved MPPs, all have approved plans. Two additional counties, Clay and Levy, proactively developed their own MPPs. Implementation of these protective measures stabilizes and may even reduce the mortality rate from watercraft collisions. An anticipated increase (118 percent) in the number of boats using Florida waterways over the next 50 years will require continued efforts to minimize watercraft collisions with manatees.

The primary conservation action in place to reduce the risk of manatee

injury and death from watercraft collisions is a limitation on watercraft speed. The rationale is that a slower speed allows both manatees and boaters additional response time to avoid a collision. Furthermore, if an impact occurs, the degree of trauma will generally be less if the colliding boat is operating at slower speed (Laist and Shaw 2006, p. 478; Calleson and Frohlich 2007, p. 295). Despite continued losses due to watercraft collisions, the southeastern U.S. manatee population is expected to increase slowly under current conditions (Runge *et al.* 2015, p. 11), which is due in part to regulatory measures that have been implemented since the manatee was listed.

The Service developed programmatic consultation procedures and permit conditions for new and expanding watercraft facilities (*e.g.,* docks, boat ramps, and marinas) as well as for dredging and other in-water activities through an effect determination key with the U.S. Army Corps of Engineers and State of Florida (the ''Manatee Key'') (revised in 2013). The Manatee Key ensures that watercraft facility locations are consistent with MPP boat facility siting criteria and are built consistent with MPP construction conditions. The Service concluded that these procedures constitute appropriate and responsible steps to avoid and minimize adverse effects to the species and contribute to recovery of the species.

Fishing Gear—Fishing gear (nets, crab traps, etc.) is known to entangle and injure and kill manatees; ingestion of fishing gear and other debris (monofilament and associated tackle, plastic banana bags, etc.) also kills manatees. In countries outside the United States, the incidental capture of animals in fishing gear is still a threat, and the captured manatees are occasionally butchered and used for food and various products. In Cuba, researchers have recently documented a decrease in the number of manatee deaths within a marine protected area, hypothesized to be due to a ban on the use of trawl net fishing in that area (Sea to Shore Alliance 2014, entire). One of the principal causes of perceived increases in manatee decline along the northern and western coasts of the Yucatan peninsula includes increased use of fishing nets that entangle manatees (Morales-Vela *et al.* 2003, in UNEP 2010, p. 59; Serrano *et al.* 2007, p. 111). In Honduras, the major cause of known manatee mortality in the period 1970–2007 was due to entanglement in fishnets (González-Socoloske *et al.* 2011, p. 123), while Nicaragua reports between 41 and 49 manatees being killed by accidental entanglements in fishing nets from 1999 to 2000 (Jiménez 2002, in UNEP 2010, p. 63). Although gillnets are illegal in Costa Rica, gillnet entanglements still occur there. However, they are uncommon in certain protected manatee use areas (Jiménez 2005, in UNEP 2010, p. 34). Castelblanco-Martínez *et al.* (2009, in Marsh *et al.* 2011, p. 278) suggest that incidental drowning in fishing nets causes almost half of the mortality and wounding of manatees in the Orinoco River in Colombia. A variety of fishing gear was reported to cause manatee entanglements, and at least 43 calves were entangled in gear in northeast Brazil between 1981 and 2002 (UNEP 2010, p. 26). On the northeast coast of Brazil, the main cause of manatee deaths is due to the constant presence of gill and drag nets (Lima *et al.* 2011, p. 107). However, most range countries outside of the United States do not have current information on the effects of fishing gear and entanglements on manatees.

In Puerto Rico, fisheries-related entanglements and debris ingestion may cause take and reduce fitness of manatees. In July 2009, there was a documented case of entanglement (beach seine net) and successful release of an adult manatee. In 2014, three adult manatees were entangled in large fishing nets, one of which was an adult female that died (PRDNER 2015, unpubl. data). A few manatees have also been found that were severely entangled in monofilament line. Stranding records indicate they rarely cause manatee deaths in Puerto Rico; a total of four in 34 years have been documented.

Fishing gear, including both gear in use and discarded gear (*i.e.,* crab traps and monofilament fishing line), is a continuing and increasing problem for manatees in the southeastern United States. It is unknown if the increasing number of rescues is a reflection of increasing awareness and reporting of entangled manatees, increases in fishing effort, increases in the number of manatees, or other factors. Between 2010 and 2014, researchers attributed 18.2 percent of all rescues to entanglement.

Rescue activities that disentangle manatees have almost eliminated mortalities and injuries associated with fishing gear (USFWS Captive Manatee Database 2015, unpubl. data) which has likely contributed towards the improvement of the status of the species. Derelict crab trap removal and monofilament recycling programs aid in efforts to reduce the number of entanglements by removing gear from the water. Extensive education and outreach efforts increase awareness and promote sound gear disposal activities. As a result, deaths and serious injuries associated with fishing gear are now extremely rare. Runge *et al.* (2015, p. 16) determined that marine debris (including entanglements in and ingestion of fishing gear) presented a weak threat to the West Indian manatee in Florida. In the future, we would like to seek opportunities to share information with countries like Cuba, Belize, and Mexico and continue to reduce entanglements from discarded or current gear range wide.

Water Control Structure—Advances in water control structure devices that prevent manatees from being crushed or impinged have been largely successful. In Florida, most structures have been fitted with devices. These devices include acoustic arrays, piezoelectric strips, grates, and bars that reverse closing structures and/or prevent manatees from accessing gates and recesses. Runge *et al.* (2015, p. 16) determined that water control structures presented a weak threat to the West Indian manatee in Florida and noted that death or injury due to water control structures had become a rare event (2015, p. 19).

Contaminants—Direct and indirect exposure to contaminants and/or chemical pollutants in benthic habitats is another factor that may have adverse effects on manatees (Bonde *et al.* 2004, p. 258). Contaminants are known to have affected one manatee in Puerto Rico (diesel spill), and residues from sugar processing in Cuba are thought to have killed manatees there (Caribbean Stranding Network 1999, entire; UNEP 1995 in UNEP 2010, p. 37). Because of this, manatees may have abandoned Cuba's largest bay area because of contamination (UNEP 1995 in UNEP 2010, p. 37). In Florida, manatees congregate at warm water outfalls in port areas where large volumes of petroleum products are transshipped. The proximity of large numbers of manatees to these areas where they and their habitat can be exposed to petroleum puts them at risk. The U.S. Coast Guard and the State of Florida practice oil spill drills in these areas and prepare for such contingencies. There are many activities that introduce contaminants and pollutants into the manatees' environment—gold mining, agriculture, oil and gas production, and others. Despite the presence of contaminants in manatee tissues, the effect that these have on manatees is poorly understood (Marsh *et al.* 2011, pp. 302–305).

Algal Blooms—These red tide blooms occur when large concentrations of the red tide organism *Karenia brevis* are present along Florida's Gulf coast. These concentrations produce brevetoxins which are inhaled or ingested by manatees with lethal effect. In southwest Florida, extensive red tide blooms killed 276 manatees in 2013. Runge *et al.* (2015, p. 20) noted that on Florida's Gulf coast, red tide effects are stronger than the effect of watercraft-related mortality due, in part, to ''the increased estimate of adult survival in the Southwest and the anticipated continued increase in the frequency of severe red-tide mortality.'' Runge *et al.*'s (2015, p. 1) analysis did not address the effect of the 2013 red tide event in its assessment.

In 2011, algal blooms in Florida's Indian River Lagoon clouded the water column and killed over 50 percent of the seagrass beds in the region (St. Johns River Water Management District, 2015). The loss of seagrass beds likely caused a dietary change that may have played a role in the loss of more than 100 manatees in the area. While algal blooms occur in other parts of the species' range, there have not been any significant die-offs attributable to this cause in this portion of the species' range.

Cold Weather—The Florida manatee subspecies is at the northern limit of the species' range. As a subtropical species, manatees have little tolerance for cold and must move to warm water during the winter as a refuge from the cold. See Recovery section for additional information. During extremely cold weather, hundreds of animals died in 2010 and 2011 due to cold stress. Notably, animals that relied on Florida's natural warm-water springs fared the best, while animals in east-central and south Florida, where springs are absent, fared the worst (Barlas *et al.* 2011, p. 31). Manatees using seagrass beds along east-central Florida's Atlantic coast cannot easily access warm-water springs of the St. Johns River during periods of cold temperatures, and in the absence of access to warm water associated with power plants, these manatees are at risk. Since these events, the number of deaths due to cold has returned to an average of roughly 30 per year (FWC FWRI 2015, unpubl. data). While cold stress remains a threat to Florida manatees, Antillean manatees, found outside of the southeastern United States, do not suffer from cold stress because they inhabit warm subtropical waters. Progress is being made in protecting warm-water sites; we continue to work with our partners to protect these sources to minimize cold-related manatee deaths.

Genetics—Isolated locations, small population sizes, and low genetic diversity increase the susceptibility of West Indian manatee to rapid decline and local extinction (Hunter *et al.* 2012, p. 1631). Low genetic diversity has been identified as a threat to manatee populations in Puerto Rico and Belize (Hunter *et al.* 2010, entire; Hunter *et al.* 2012, entire). In addition, the manatee population in Puerto Rico is essentially closed to immigration from outside sources. Natural geographical features and manatee behavior limits gene flow from other neighboring manatee populations (*i.e.,* Dominican Republic), and genetic mixing is not expected (Hunter *et al.* 2012, p. 1631). Manatee populations in other portions of the range may also be affected by isolation, small population size, and low genetic diversity. Low genetic diversity in the southeastern United States has been identified as a potential concern (Bonde *et al.* 2012, p. 15). However, there is limited detailed genetic information to confirm the significance of this to the West Indian manatee as a whole.

Tropical Storms—Tropical storms and hurricanes may also pose a threat to manatees. Live manatee strandings and reduced adult manatee survival rates can be attributed, in part, to hurricanes and storms (Langtimm and Beck 2003, entire; Langtimm *et al.* 2006, entire). Langtimm and Beck (2003) suggest that both direct and indirect mortality (from strandings, debris-related injuries, animals being swept offshore, etc.) and/or emigration associated with hurricanes and storms may cause a decrease in adult survival rates. This result has been observed in Florida and in Mexico: Hurricanes and storms are thought to affect the presence/absence of manatees in storm-struck areas. In Puerto Rico, tropical storms and hurricanes intensify heavy surf, and at least one manatee calf death was attributed to Hurricane Hortense in 1996 (USFWS 2007, p. 33). Other factors can either exacerbate or ameliorate risk to the manatee population, such as density of manatees within the strike area, the number of storms within a season, protective features of the coastline such as barrier islands, or occurrence of other mortality factors (Langtimm *et al.* 2006, p. 1026). However, there is limited information to confirm the significance of tropical storms on manatees.

Climate Change/Sea-level Rise—The Intergovernmental Panel on Climate Change (IPCC) concluded that warming of the climate system is unequivocal (IPCC 2014, p. 3). The more extreme impacts from recent climate change include heat waves, droughts, accelerated snow and ice melt including permafrost warming and thawing, floods, cyclones, wildfires, and widespread changes in precipitation amounts (IPCC 2014, pp. 4, 6). Due to the projected sea level rise (SLR) associated with climate change, coastal systems and low-lying areas will increasingly experience adverse impacts such as submergence, coastal flooding, and coastal erosion (IPCC 2014, p. 17). In response to ongoing climate change, many terrestrial, freshwater, and marine species have shifted their geographic ranges, seasonal activities, and migration patterns (IPCC 2014, p. 4).

Although SLR is due in part to natural variability in the climate system, scientists attribute the majority of the observed increase in recent decades to human activities that contribute to ocean thermal expansion related to ocean warming, and melting of ice (Marcos and Amores 2014, pp. 2504–2505).

Trend data show increases in sea level have been occurring throughout the southeastern Atlantic and Gulf coasts, and, according to Mitchum (2011, p. 9), the overall magnitude in the region has been slightly higher than the global average. Measurements summarized for stations at various locations in Florida indicate SLR there has totaled approximately 200 millimeters (mm) (8 inches (in.)) over the past 100 years, with an average of about 3.0 mm per year (0.12 in. per year) since the early 1990s (Ruppert 2014, p. 2). The relatively few tidal gauges in Florida, Alabama, Georgia, South Carolina, and southern North Carolina also show increases, the largest increases being in South Carolina, Alabama, and parts of Florida (NOAA Web site *http://tidesandcurrents.noaa.gov/sltrends/sltrends.shtml,* accessed August 28, 2015).

Continued global SLR is considered virtually certain to occur throughout this century and beyond (Stocker, 2013, p. 100; Levermann *et al.* 2013, entire). Depending on the methods and assumptions used, however, the range of possible scenarios of global average SLR for the end of this century is relatively large, from a low of 0.2 meters (m) (approximately 8 in.) to a high of 2 m (approximately 78 in., *i.e.,* 6.6 feet (ft)) (Parris *et al.* 2012, pp. 2, 10–11). Although this relatively wide range reflects considerable uncertainty about the exact magnitude of change, it is notable that increases are expected in all cases, and at rates that will exceed the SLR observed since the 1970s (IPCC 2013, pp. 25–26). Given the large number and variety of climate change

and SLR models, forecasts of the rate and extent of SLR vary significantly. Because of the variation in projections and uncertainties associated with manatee response to SLR, it will be important to continue monitoring manatee habitat use throughout the species' range.

Other possible effects of climate change include increases in the frequency of harmful algal blooms, increases in the frequency and intensity of storms, losses of warm-water refugia and possible decreases in the number of watercraft collisions. Warmer seas may increase the frequency, duration, and magnitude of harmful algal blooms and cause blooms to start earlier and last longer. Increases in salinity could create more favorable conditions for other species; conversely, increases in storm frequency and extreme rainfall could offset the effects of salinity on algal growth (Edwards *et al.* 2012, p. 3).

Climate change models predict that the intensity of hurricanes will increase with increasing global mean temperature (Edwards *et al.* 2012, p. 4). Langtimm *et al.* (2006, entire) found that mean adult survival dropped significantly in years after intense hurricanes and winter storms. These decreases were thought to be due to tidal stranding, animals being swept out to sea, loss of forage, or emigration of animals out of affected areas (Langtimm *et al.* 2006, p. 1026).

For manatees in the southeastern United States, SLR could mean the loss of most of the major industrial warm-water sites and result in changes to natural warm-water sites. In the event of a projected SLR of 1 to 2 meters (3.3 to 6.6 feet) in 88 years (Rahmstorf 2010 and Parris *et al.* 2012 in Edwards *et al.* 2012, p. 5), SLR will inundate these sites and warm-water capacity could be lost. While power plants may not be in operation when SLR inundates their sites, the increased intensity and frequency of storms could interrupt plant operations and warm-water production. If storms result in the loss of a power plant, manatees that winter at that site could die in the event that they did not move to an alternate location (Edwards *et al.* 2012, p. 5). Increased intrusion of saltwater from SLR or storm surge coupled with reduced spring flows could reduce or eliminate the viability of natural springs used by wintering manatees (Edwards *et al.* 2012, p. 5).

Climate-change-induced loss of fishing habitat and boating infrastructure (docks, etc.), increases in storm frequency, and pollutants and changes in economics and human demographics could decrease the per capita number of boats operating in manatee habitat. If these changes were to occur, decreases in the numbers of boats operating in manatee habitat could reduce numbers of manatee–watercraft collisions (Edwards *et al.* 2012, p. 7).

Many complex factors with potentially negative consequences are likely to operate on the world's marine ecosystems as global climate change progresses. Conversely, climate change could potentially have a beneficial effect, as well (see discussion above). Therefore, there is uncertainty regarding how climate change and its effects may impact the manatee and its habitat in the future (Hoegh-Guldberg and Bruno 2010 in Marsh *et al.* 2011, p. 313). See *Cumulative Effects* below.

Summary of Factor E: At the time of listing, manatees were believed to be threatened by watercraft, the loss of seagrasses, contaminants, and harassment. Since the then, efforts to reduce boat collisions have been successful in some cases; however, watercraft collisions continue to be an ongoing concern for manatees. Watercraft strikes or collisions, fishing gear entanglement, entrapment or crushing in water control structures, contaminants; harmful algal blooms, cold weather, loss of genetic diversity, tropical storms, and the effects of climate change are factors that may continue to have an effect on West Indian manatees for the foreseeable future. The negative effects associated with increasing numbers of watercraft will require continued maintenance and enforcement of manatee protection areas, and the adoption of additional protected areas both inside and outside the United States will continue as needs become apparent. Increasing fishing efforts and the consequent increase of fishing gear in water will require continued efforts to maintain gear in a manatee-safe fashion, additional and continued gear clean-ups, and maintenance of the manatee rescue program to rescue entangled manatees. While most water control structures in the United States have been fitted to prevent impingements and crushings and have contributed to the improvement of the status of manatees, new structures in the United States must be fitted to minimize impacts to manatees. Existing and new structures outside the United States should be fitted, as well. For manatees in Florida, harmful algal blooms and cold weather will continue to affect this subspecies. Tropical storms and hurricanes will continue to have an effect on the West Indian manatee in most parts of its range. Effects of climate change and sea level rise impacts on West Indian manatees and their habitat are uncertain.

While watercraft collisions and the pending loss of the Florida manatees' loss of warm water habitat are being addressed, they have not been eliminated. There is a high level of uncertainty regarding the overall effects of climate change on the species and its habitat.

Cumulative Effects—Factors can individually impact a species and/or its habitat and can work in concert with one another to cumulatively create conditions that may impact a species or its habitat beyond the scope of individual threats and, thereby, increase the risk of extinction. Factors negatively affecting manatees include habitat loss, degradation, and fragmentation; watercraft collisions; the loss of winter warm-water habitat; poaching; and others.

In our assessment, we reviewed manatee population models (Castelblanco-Martínez *et al.* 2012; Runge *et al.,* 2007; and others) that assessed the effects of these threats both individually and cumulatively. Runge *et al.* (2007) conducted a simultaneous and integrated analysis of the threats facing Florida manatees and concluded that the role of threats faced by manatees is cumulative and increases the risk of extinction. Castelblanco-Martínez *et al.* (2012, p. 130) observed that ''[t]he cumulative actions of natural catastrophes, anthropogenic disturbances, and low recovery rates can cause a progressive decrease in the [Antillean manatee] population throughout the range.''

Runge *et al.* (2007) considered the individual effect of each threat and the cumulative effect of multiple threats in pairs, multiples and all threats. By way of example, the authors observed that the addition of the watercraft threat to a baseline scenario with no threats raised the extinction probability and that the addition of the watercraft threat to a scenario that contained all of the remaining threats raised the extinction probability to an even greater extent (Runge *et al.,* 2007, p. 13). They noted that ''[a]ny single threat does not pose a particularly large risk, but in combination the risk is substantially greater'' (Runge *et al.,* 2007, p. 13).

We did not find significant information that would lead us to believe that the cumulative effect of factors acting on the species warrants maintaining the West Indian manatee as endangered. Rather, the potential cumulative effects of factors (both positive and negative) affecting the West Indian manatee, in part, contribute to the species' threatened status.

Foreseeable Future

The Act does not define the term ''foreseeable future.'' In a general sense, the foreseeable future is the period of time over which events can reasonably be anticipated; in the context of the definition of ''threatened species,'' the Service interprets the foreseeable future as the extent of time over which the Secretary can reasonably rely on predictions about the future in making determinations about the future conservation status of the species. It is important to note that references to ''reliable predictions'' are not meant to refer to reliability in a statistical sense of confidence or significance; rather the words ''rely'' and ''reliable'' are intended to be used according to their common, non-technical meanings in ordinary usage. In other words, we consider a prediction to be reliable if it is reasonable to depend upon it in making decisions, and if that prediction does not extend past the support of scientific data or reason so as to venture into the realm of speculation.

In considering threats to the species and whether they rise to the level such that listing the species as a threatened species or endangered species is warranted, we assess factors such as the imminence of the threat (*i.e.,* is it currently affecting the species or, if not, when do we expect the effect from the threat to commence, and whether it is reasonable to expect the threat to continue into the future), the scope or extent of the threat, the severity of the threat, and the synergistic effects of all threats combined. If we determine that the species is not currently in danger of extinction, then we must determine whether, based upon the nature of the threats, it is reasonable to anticipate that the species is likely to become in danger of extinction within the foreseeable future. As noted in the 2009 Department of the Interior Solicitor's opinion on foreseeable future, ''in some cases, quantifying the foreseeable future in terms of years may add rigor and transparency to the Secretary's analysis if such information is available. Such definitive quantification, however, is rarely possible and not required for a foreseeable future analysis'' (DOI 2009; p. 9), available at *https://solicitor.doi.gov/opinions/M-37021.pdf.*

One possible way to determine foreseeable future is as the lifespan of the species. As explained in our proposed rule (81 FR 1004; January 8, 2016), the lifespan of the manatee is not known with certainty, but there is a record of a 67-year old captive Florida manatee and documented longevity records of over 55 years in the wild. We identify in our determination that the foreseeable future of this species is 50 years (see below), is largely consistent with the lifespan of this species. We have also used two published population models (Castelblanco-Martínez *et al.* 2012; Runge *et al.* 2015) and a threats analysis to state there is a small chance that the West Indian manatee will become extinct within this timeframe.

As suggested in the Solicitor's opinion, for the purposes of the present analysis, we are relying on an evaluation of the foreseeability of threats and the foreseeability of the effect of the threats on the species, extending this time period out only so far as we can use the data to formulate reliable predictions about the status of the species, and not extending so far as to venture into the realm of speculation. Therefore, in the case of the West Indian manatee, we conclude that the foreseeable future is that period of time within which we can reliably predict whether or not the species is likely to become an endangered species as a result of the effects of the threats specified in this rule. We consider 100 years to be beyond the foreseeability of threats to the West Indian manatee across the 21 countries where the West Indian manatee currently occurs (Table 1), especially given the known uncertainties and data limitations throughout most of the Antillean subspecies range. We have identified a foreseeable future of 50 years because it is a period of time over which we are able to reliably predict the magnitude of threats and their effects on manatee. This time period is consistent with respect to our ability to make predictions on the magnitude and the effects of the principal factors impacting the species as described above. The 50-year period is also similar to the timeframe used for the decline predictions identified for this species by the IUCN (decline at a rate of at least 10 percent over the course of three generations or about 60 years, Deutsch *et al.* 2008, online). This approach creates a more robust analysis of the best scientific and commercial data available.

As explained in more detail above, principal factors impacting the species include: Habitat destruction and modification, future availability of warm-water sites for the Florida manatee, the frequency of red tide and/or other unusual mortality events, watercraft strikes and injuries, and poaching in some areas of its range. In addition, although numerous regulatory mechanisms to protect manatees exist, challenges in the enforcement of these regulatory mechanisms have been identified, including in areas outside the United States. For example, full implementation of international and local laws is lacking, especially given limited funding and understaffed law enforcement agencies (UNEP 2010, p. 89). Most of the identified factors in this rule impacting the West Indian manatee are influenced by humans, and recovery actions are aimed at mitigating or reducing these human activities that are detrimental to the species.

Within the foreseeable future of 50 years, human populations and concomitant factors affecting the species are expected to increase. For example, human population growth and the resulting pressure exerted on habitats are expected to result in more impacts to coastal and freshwater resources, as land is converted to uses that will meet the needs of the human population. In 2015, there were 634,000,000 people in Latin America and the Caribbean (UN 2015, p. 1); in 2010, there were 18,801,310 people in Florida (Carr and Zwick *et al.* 2016, p. 4). Human populations in the Latin American and Caribbean region are projected to grow to 784,000,000 by 2050 (23.7 percent) and in Florida, to 33,721,828 (68.7 percent) by 2070 (UN 2016; Carr and Zwick *et al.* 2016, p. 4). Given that human populations continue to grow (Marsh *et al.* 2012, p. 321), it is expected that human-manatee conflicts will also increase and will result in additional stressors to the West Indian manatee population and greater challenges for conservation. In Florida, human population increases will increase water withdrawals from Florida's aquifers which, in turn, will diminish the amount of warm water available to manatees in Florida's springs (Edwards 2012, p. 6). This population increase will also increase the number of registered boats in Florida from 915,713 (Florida Department of Highway Safety and Motor Vehicles: Florida Vessel Owners, Statistics 2015; *http://www.hsmv.state.fl.us/dmv/TaxCollDocs/vesselstats2015.pdf*) to an estimated 2,000,000 boats by 2060 (118.4 percent), likely increasing the risk of vessel collisions with manatees (FWC 2008, p. 24). Continuing and increasing efforts will be needed to ensure that this species does not become endangered within the foreseeable future.

Determination

An assessment of the need for a species' protection under the Act is based on whether a species is in danger of extinction or likely to become so because of any of the five factors: (A)

The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or human-made factors affecting its continued existence. As required by section 4(a)(1) of the Act, we conducted a review of the status of the West Indian manatee and assessed the five factors to evaluate whether the species is in danger of extinction, or likely to become endangered in the foreseeable future throughout all or a significant portion of its range. We examined the best scientific and commercial information available regarding the past, present, and future threats faced by this species.

In considering what factors might constitute current threats, we must look beyond the mere exposure of the species to the factor to determine whether the exposure causes actual impacts to the species. If there is current exposure to a factor, but no response, or only a positive response, that factor is not a threat. If there is exposure and the species responds negatively, the factor may be a threat and we then attempt to determine how significant the threat is. If the threat is significant, it may drive, or contribute to, the risk of extinction of the species such that the species warrants listing as an endangered species or threatened species as those terms are defined by the Act. This determination does not necessarily require empirical proof of a threat. The combination of exposure and some corroborating evidence of how the species is likely impacted could suffice. The mere identification of factors that could impact a species negatively is not sufficient to compel a finding that listing is appropriate; we require evidence that these factors are operative threats that act on the species to the point that the species meets the definition of an endangered species or threatened species under the Act.

By definition, an endangered species is a ''species which is in danger of extinction throughout all or a significant portion of its range'' and a threatened species is a ''species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' In the southeastern United States, where the largest population of manatees exists, the manatee population has likely grown in size, based on updated adult survival rate estimates and estimated growth rates (Runge *et al.,* 2015, p. 19). A summary of the factors affecting the species, including successes in the species' recovery, is discussed in more detail below.

Human causes of mortality and injury are being addressed in part throughout the manatee's range. Predominant causes of mortality and injury include poaching (factor B), entanglement in fishing gear (factor E), and collisions with watercraft (factor E). Poaching has been eliminated in the southeastern United States and in Puerto Rico (factor B). Efforts to address poaching outside the United States vary in effectiveness, with some successful reductions in a few countries (factor D). Poaching attempts in areas where controls are not in place are a threat to the West Indian manatee that makes it likely to become endangered within the foreseeable future. Entanglement in fishing gear continues throughout the species' range (factor E). In the southeastern United States, entangled manatees are rescued and very few deaths and serious injuries occur. In Puerto Rico, there have been few entanglements since 1986, when entanglements were first reported as a severe threat. Entanglements outside the United States are known to occur; however, the magnitude and severity of this threat is unknown.

Watercraft collisions are the predominant anthropogenic cause of death for manatees in the United States (factor E). The Service, other Federal agencies, and State and Commonwealth wildlife management agencies continue to be engaged in significant efforts to address and further reduce this threat. In Florida, a network of marked, enforced, manatee protection areas ensure that boat operators slow down to help avoid manatees. In Puerto Rico, manatee protection areas have not been designated, but a number of regulated manatee speed buoys are in place to better protect manatees (factors A and D). Watercraft collisions are known to kill manatees outside the United States; however, available information on the magnitude of this threat in other countries is limited, except for in Belize where this threat is known to be significant and increasing.

Habitat fragmentation and loss are thought to be the greatest threats to manatees outside the United States (factor A). Development activities in coastal and riverine areas destroy aquatic vegetation and block access to upriver reaches and freshwater. This can disrupt dispersal and foraging patterns and exacerbate the effects of poaching especially on small populations. Within the United States, Federal, State, and Commonwealth agencies limit habitat losses and those activities that block access through regulatory processes. For example, the State of Florida and the Service rely on county MPPs to address impacts to manatee habitat from installation of, for example, a boat dock or marina. In Florida, the other potential significant threat facing manatees is the loss of winter warm-water habitat and algal blooms pose a localized threat to West Indian manatees. Federal and State agencies are working with the power industry and others to ensure a future warm-water network to sustain manatees into the future. While many strides have been made in this area, work continues to be done to fully address and reduce this threat, as described above in our review of the Florida manatee recovery plans. In addition, we must continue to address pending changes in the manatees' warm-water network (develop and implement strategies) and support the adoption of minimum flow regulations for remaining important springs used by manatees. If warm water refuges are lost, this threat could cause the loss or debilitation of manatees due to cold stress that will make the West Indian manatee likely to become endangered in the foreseeable future.

Available population estimates suggest that there may be as many as 13,142 manatees throughout the species' range (UNEP 2010, p. 11 and Castelblanco-Martínez *et al.,* 2012, p. 132, Martin *et al.,* 2015, p. 44). Estimates from countries outside the United States (6,250) are largely conjectural and are based on the opinions of local experts. Within the United States, Martin *et al.,* (2015, p. 44) and Pollock *et al.,* (2013, p. 8) describe population estimates of 6,350 manatees and 532 manatees in the southeastern United States and Puerto Rico, respectively.

Recent demographic analyses (through 2009) suggest a stable or increasing population of Florida manatees (Runge *et al.,* 2015, entire) and demonstrate that Florida manatees are not endangered at the present time. Castelblanco-Martínez *et al.'s* (2012, pp. 129–143) PVA baseline model for the Antillean manatee describes a metapopulation with positive growth. Runge *et al.,* (2015, p. 13) predict that it is unlikely (< 2.5 percent chance) that the Florida population of manatees will fall below 4,000 total individuals over the next 100 years, assuming current threats remain at their current levels indefinitely. The ability of the West Indian manatee to survive long-term across its range is related to its ability to withstand human-caused and natural threats of varying magnitude and duration and the efforts of stakeholders

to adequately address manatees' conservation needs.

There are numerous ongoing efforts to protect, conserve, and better understand West Indian manatees and their habitat throughout their range, as described in this rule. The contribution of these recovery efforts to the current status of the species is important. Given our review of the best scientific and commercial information available and analyses of threats and demographics, we conclude that the West Indian manatee no longer meets the Act's definition of endangered. However, there are many important actions that must be taken to address the remaining threats to manatees before the manatee can be delisted. Some imminent threats remain and will likely continue into the foreseeable future and possibly escalate and need to be addressed as appropriate. Escalating threats may be concomitant with increasing human populations, and commensurate efforts will be needed to keep pace with these and any new threats that may evolve. These remaining or new potential threats, especially those acting upon declining and smaller populations make the species likely to become endangered in the foreseeable future (50 years).

We did not find significant information that would lead us to believe that the cumulative effect of factors acting on the species warrants maintaining the West Indian manatee as endangered. Rather, we find that the potential cumulative effect of factors acting on the West Indian manatee, in part, contributes to the species' threatened status. Overall, regulatory mechanisms adopted since the manatee's listing have ameliorated some factors affecting manatees. However, in some instances, regulatory mechanisms are still inadequate such that the manatee continues to require the protections of the Act. We find that the West Indian manatee is no longer in danger of extinction throughout all of its range due to (1) significant recovery efforts made throughout parts of its range to address threats and (2) a better understanding of manatee population demographics. Examples of remaining threats that make this species likely to become endangered in the foreseeable future include habitat loss, degradation, and fragmentation and the loss of winter warm-water habitat (factor A); poaching (factor B); watercraft collisions and others (factor E). Accordingly, we are reclassifying the species as threatened under the Act.

Significant Portion of the Range

Because we have concluded that the West Indian manatee is a threatened species throughout all of its range, no portion of its range can be ''significant for purposes of the definitions of ''endangered species'' and ''threatened species.'' See the Service's Significant Portion of its Range (SPR) Policy (79 FR 37578, July 1, 2014).

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing increases public awareness of threats to the West Indian manatee, and promotes conservation actions by Federal, State, and local governments in the United States, foreign governments, private organizations and groups, and individuals. The Act provides for possible land acquisition and cooperation with the State, and for recovery planning and implementation. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

A number of manatees occur in near-shore waters off Federal conservation lands and are consequently afforded some protection from development and large-scale habitat disturbance. West Indian manatees also occur in or offshore of a variety of State-owned properties, and existing State and Federal regulations provide protection on these sites. There are also a significant number of manatees that occur along shores or rivers of private lands, and through conservation partnerships, many of these use areas are protected through the owners' stewardship. In many cases, these partnerships have been developed through conservation easements, wetland restoration projects, and other conservation means.

Section 7(a) of the Act, as amended, and as implemented by regulations at 50 CFR part 402, requires Federal agencies to evaluate their actions with respect to the West Indian manatee within the United States or under U.S. jurisdiction. If a Federal action may adversely affect the manatee or its habitat, the responsible Federal agency must consult with the Service to ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of the West Indian manatee. Federal action agencies that may be required to consult with us include but are not limited to the U.S. Army Corps of Engineers, the U.S. Coast Guard, the Environmental Protection Agency, and others, due to involvement in actions or projects such as permitting boat access facilities (marinas, boat ramps, etc.), dredge and fill projects, high-speed marine events, warm-water discharges, and many other activities.

Section 8(a) of the Act authorizes the provision of limited financial assistance for the development and management of programs that the Secretary of the Interior determines to be necessary or useful for the conservation of endangered or threatened species in foreign countries. Sections 8(b) and 8(c) of the Act authorize the Secretary to encourage conservation programs for foreign listed species, and to provide assistance for such programs, in the form of personnel and the training of personnel.

The Secretary has the discretion to prohibit by regulation, with respect to any threatened species, any act prohibited under section 9(a)(1) of the Act. Exercising this discretion, the Service developed general prohibitions (50 CFR 17.31) and exceptions to those prohibitions (50 CFR 17.32) under the Act that apply to most threatened species. Our regulations at 50 CFR 17.31 provide that all the prohibitions for endangered wildlife under 50 CFR 17.21, with the exception of 50 CFR 17.21(c)(5), will generally also be applied to threatened wildlife. These prohibitions make it illegal for any person subject to the jurisdiction of the United States to ''take'' (including to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or to attempt any of these) within the United States or upon the high seas, import or export, deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of a commercial activity, or to sell or offer for sale in interstate or foreign commerce, any endangered (and hence, threatened) wildlife species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken in violation of the Act. Certain exceptions apply to agents of the Service and State conservation agencies. These prohibitions will continue to be applicable to the West Indian manatee. The general provisions for issuing a permit for any activity otherwise prohibited with regard to threatened species are found at 50 CFR 17.32.

The Service may develop regulations tailored to the particular conservation needs of a threatened species under Section 4(d) of the Act if there are specific prohibitions and exceptions that would be necessary and advisable for the conservation of that particular species. In such cases, some of the prohibitions and exceptions under 50

CFR 17.31 and 17.32 may be appropriate for the species and incorporated into the regulations, but they may also be more or less restrictive than those general provisions. The Service believes the prohibitions and exceptions set out in 50 CFR 17.31 and 17.32 are most appropriate to address the particular conservation needs of the West Indian manatee at this time.

In Florida, questions regarding whether specific activities will constitute a violation of section 9 of the Act should be directed to the U.S. Fish and Wildlife Service, North Florida Ecological Services Office (see **FOR FURTHER INFORMATION CONTACT** section). In Puerto Rico, questions regarding whether specific activities will constitute a violation of section 9 of the Act should be directed to the Caribbean Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT** section). Requests for copies of the regulations regarding listed species and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Ecological Services Division, 1875 Century Boulevard, Suite 200, Atlanta, GA 30345 (telephone 404–679–7097, facsimile 404–679–7081).

Effects of This Rule

When it becomes effective, this final rule revises 50 CFR 17.11(h) to reclassify the West Indian manatee from an endangered species to a threatened species on the Federal List of Endangered and Threatened Wildlife. This rule formally recognizes that the West Indian manatee is no longer in danger of extinction throughout all or a significant portion of its range. However, this reclassification does not significantly change the protections afforded to this species under the Act. Anyone taking, attempting to take, or otherwise possessing this species, or parts thereof, in violation of section 9 of the Act or its implementing regulations, is subject to a penalty under section 11 of the Act. Pursuant to section 7 of the Act, all Federal agencies must ensure that any actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of the West Indian manatee. In addition, although the West Indian manatee is reclassified to threatened when this rule becomes effective, the West Indian manatee is still considered depleted and strategic under the MMPA.

Recovery actions directed at the West Indian manatee will continue to be implemented as outlined in the recovery plans (USFWS 1986 and 2001, entire). Highest priority recovery actions needed to address remaining threats include: (1) Reducing watercraft collisions with manatees; (2) protecting habitat, including foraging and drinking water sites and for the Florida subspecies, warm-water sites; and (3) reducing entanglements in fishing gear. Other recovery initiatives also include addressing harassment and illegal hunting in sites where these occur.

Finalization of this rule does not constitute an irreversible commitment on our part. Reclassification of the West Indian manatee from threatened status back to endangered status could occur if changes occur in management, population status, or habitat, or if other factors detrimentally affect or increase threats to the species. Such a reclassification would require another rulemaking.

Under section 4(d) of the Act, the Service has discretion to issue regulations that we find necessary and advisable to provide for the conservation of threatened species. The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to threatened wildlife. The prohibitions of section 9(a)(1) of the Act, as applied to threatened wildlife and codified at 50 CFR 17.31 make it illegal for any person subject to the jurisdiction of the United States to take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these) threatened wildlife within the United States or on the high seas. In addition, it is unlawful to import; export; deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of commercial activity; or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to employees of the Service, the National Marine Fisheries Service, other Federal land management agencies, and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving threatened wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.32. With regard to threatened wildlife, a permit may be issued for the following purposes: for scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities. There are also certain statutory exemptions from the prohibitions, which are found in sections 9 and 10 of the Act. Whenever a species is listed as threatened, the Act allows promulgation of special rules under section 4(d) that modify the standard protections for threatened species found under section 9 of the Act and Service regulations at 50 CFR 17.31 (for wildlife) and 17.71 (for plants), when it is deemed necessary and advisable to provide for the conservation of the species. No additional regulations are being implemented, or anticipated to be implemented, for the West Indian manatee because there is currently no conservation need to do so for this species. If there is a conservation need for a 4(d) rule at some point in the future for the West Indian Manatee, such a rulemaking would require a companion special rule under the MMPA.

Required Determinations

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act of 1969 need not be prepared in connection with regulations pursuant to section 4(a) of the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, Secretarial Order 3206, the Department of the Interior's manual at 512 DM 2, and the Native American Policy of the Service, January 20, 2016, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. We contacted tribes in the southeastern United States within the range of the West Indian manatee and requested their comments on our proposed rule. The Seminole Tribe of Florida and Miccosukee Tribe of Indians of Florida responded to our request (see Summary of Comments).

References Cited

A complete list of all references cited in this final rule is available at *http://www.regulations.gov* at Docket No. FWS–R4–ES–2015–0178 or upon request from the North Florida Ecological Services Field Office or Caribbean Ecological Services Field

Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this final rule are staff members of the North Florida Ecological Services Field Office and the Caribbean Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

For the reasons stated in the preamble, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.11(h) by revising the entry for ''Manatee, West Indian'' under ''MAMMALS'' in the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
Mammals				
*	*	*	*	*
Manatee, West Indian	*Trichechus manatus*	Wherever found	T	32 FR 4001, 3/11/1967; 35 FR 8491, 6/2/1970; 82 FR [Insert **Federal Register** *page where the document begins*], 4/5/2017; 50 CFR 17.108(a); 50 CFR 17.95(a).CH

* * * * *

Dated: March 16, 2017.

James W. Kurth,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2017–06657 Filed 4–4–17; 8:45 am]

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FEDERAL REGISTER

Vol. 82 Wednesday,

No. 64 April 5, 2017

Part III

The President

Proclamation 9581—Cancer Control Month, 2017
Proclamation 9582—National Child Abuse Prevention Month, 2017
Proclamation 9583—National Donate Life Month, 2017
Proclamation 9584—National Financial Capability Month, 2017
Proclamation 9585—National Sexual Assault Awareness and Prevention Month, 2017
Proclamation 9586—World Autism Awareness Day, 2017
Executive Order 13785—Establishing Enhanced Collection and Enforcement of Antidumping and Countervailing Duties and Violations of Trade and Customs Laws
Executive Order 13786—Omnibus Report on Significant Trade Deficits
Executive Order 13787—Providing an Order of Succession Within the Department of Justice

Federal Register
Vol. 82, No. 64
Wednesday, April 5, 2017

Presidential Documents

Title 3—

The President

Proclamation 9581 of March 31, 2017

Cancer Control Month, 2017

By the President of the United States of America

A Proclamation

The creativity and commitment of America's incredible medical research and healthcare communities have made the United States the biomedical innovation capital of the world. In particular, American innovators have made ground-breaking advances in cancer research. These innovations help drive the declining rates of cancer mortality.

Still, much work remains to be done. Cancer is still the second-leading cause of death in the United States and causes too much suffering for too many of our families and communities.

During Cancer Control Month, we honor the memory of loved ones lost to cancer and we celebrate our cancer survivors. We recommit ourselves to developing cures for those currently battling this disease across the country and to educating people on the many ways they can prevent cancer and take care of those who have fallen ill.

Our Nation is committed to winning the fight against cancer. Throughout April, we promote methods to combat cancer and we recognize the thousands of medical professionals, public health advocates, scientific researchers, innovative companies, and family members and friends who treat, find cures for, and support those suffering from all forms of cancer.

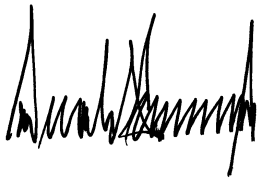
My Administration will continue to work with the Congress to implement the 21st Century Cures Act and clear the way for enormous breakthroughs in medical science. Cutting-edge research can transform cancer treatment, so that it is more effective, less toxic, and less debilitating. Together, we will make possible the medical advances necessary to prevent, treat, and defeat this disease.

Experts believe that nearly half of the most common cancers can be prevented. Americans can reduce their risk of developing cancer through healthy eating habits, regular physical activity, and avoiding tobacco and excessive alcohol consumption. Regular physicals and cancer screenings and awareness of family medical histories are also critical to preventing cancers and helping those who fall victim to cancer discover it at earlier, more treatable stages.

Because of the toll cancer imposes on our citizens, families, and communities, as well as the importance of promoting prevention and early detection, my Administration wholeheartedly concurs in the request of the Congress, that dates back to 1938, to declare April as ''Cancer Control Month.''

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 April 2017 as Cancer Control Month. I call upon the people of the United States to speak with their doctors and healthcare providers to learn more about preventive measures that can save lives. I encourage citizens, government agencies, private businesses, nonprofit organizations, the media, and other interested groups to increase awareness of what Americans can do to prevent and control cancer. I also invite the Governors of the States and Territories and officials of other areas subject to the jurisdiction of the United States to join me in recognizing Cancer Control Month.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first 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.



[FR Doc. 2017–06940
Filed 4–4–17; 11:15 am]
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Presidential Documents

Proclamation 9582 of March 31, 2017

National Child Abuse Prevention Month, 2017

By the President of the United States of America

A Proclamation

Childhood is precious. Growing up in a loving home, with a nurturing family, surrounded by a safe community gives our children the best opportunity to realize their full potential. Sadly, mistreatment by parents, guardians, relatives, or caregivers all too often threatens children's ability to flourish. Abuse or neglect can rob children of their sense of dignity and worth, which are indispensable to the pursuit of happiness and success in the classroom, in the workplace, and in relationships. Children rightfully impose a moral obligation on adults, who must protect them from harm and preserve their opportunity to reach their full potential and achieve their dreams. They deserve nothing less. The dreams of our children are the future of this country.

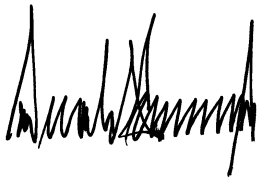
As we observe National Child Abuse Prevention Month, we renew our commitment to stop child abuse before it begins. That means preventing destructive conduct from shattering the secure and protective environments in which our children deserve to live, learn, and thrive. We must all be aware of the signs of child maltreatment and take appropriate steps to safeguard children by reporting concerns and connecting families with the help they may need.

The family is society's most important institution, and its impact on human potential is unmatched by any other influence that government, education, or even community can wield. We must promote strong families. By respecting and supporting parents, we will reduce risks and increase the safety and protection critical to our children's happiness and success. The best child abuse prevention program is a strong family with well-equipped, mature, and child-focused parents. We therefore celebrate the many community members who help parents fulfill their moral obligations by providing them a needed shoulder to lean on in troubled times.

We also honor foster and adoptive parents, child protective workers, faith leaders, community mentors, teachers, and law enforcement officials, whose tireless work every day protects children who have been tragically abused or neglected. Their often thankless service in these difficult and painful situations helps restore the safety and dignity of these wounded children and, in many cases, dramatically improves the course of their precious lives. As a Nation, we pledge to honor our commitment to protecting the vulnerable among us, not just this month, but every day of the year.

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 April 2017 as National Child Abuse Prevention Month. I call upon all Americans to be alert to the safety and well-being of children and to support efforts that promote their physical, emotional, and developmental health.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first 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.



[FR Doc. 2017–06944
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Presidential Documents

Proclamation 9583 of March 31, 2017

National Donate Life Month, 2017

By the President of the United States of America

A Proclamation

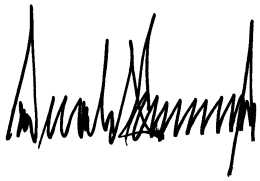
Every day, Americans sustain the miracle of life by generously donating their organs and tissue to others in need. During National Donate Life Month, we honor the living and deceased donors who gave so others could live, and celebrate the remarkable achievements of our healthcare and science professionals who perform transplants and create techniques to make the gift of life possible.

We also continue our efforts to raise awareness of the life-saving potential Americans have as donors. The Organ Procurement and Transplantation Network reports that 33,606 transplants were performed during 2016, which is an 8.5 percent increase from 2015.

Still, additional donors are urgently needed. More than 118,000 people are currently waiting for organ transplants, and thousands of our family members and friends die each year waiting for matches. This month we remind Americans that people of all ages and from all walks of life can help save lives. Remarkably, one organ donor can save up to eight lives. One tissue donor can help 75 people heal. I encourage Americans everywhere to learn about how they can participate in the gift of life by becoming organ and tissue donors, and the many other ways they can give to those in need.

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 April 2017 as National Donate Life Month. I call upon healthcare professionals, volunteers, educators, government agencies, faith-based and community groups, and private organizations to help raise awareness of the urgent need for organ and tissue donors throughout our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first 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.



[FR Doc. 2017–06945
Filed 4–4–17; 11:15 am]
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Presidential Documents

Proclamation 9584 of March 31, 2017

National Financial Capability Month, 2017

By the President of the United States of America

A Proclamation

The ability of Americans to plan, save, and invest is vital to their building wealth and pursuing the American Dream. One of my first actions as President was to issue an Executive Order entitled ''Core Principles for Regulating the United States Financial System,'' and its first core principle is that financial regulation should ''empower Americans to make independent financial decisions and informed choices in the marketplace, save for retirement, and build individual wealth.''

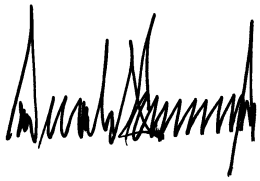
Empowering Americans to make independent financial decisions and informed choices is critically important to our Nation's prosperity. Yet more than half of households today do not have 3 months of funds saved for emergency, and most families with children are not currently saving for college. In addition, a majority of working Americans worry about running out of money in retirement, and nearly a third of workers have no retirement savings at all.

We must address these challenges. Creating and implementing innovative financial education curriculums is critical. For example, the Department of Defense has made long-term financial security education opportunities available for our service members and their families. As a result, the men and women of the Armed Forces can plan a healthy financial future by seeking advice from personal financial managers and counselors.

My Administration will work with committed organizations in all sectors to improve financial education and share best practices so that all Americans—no matter their income, education, or background—have the capability to make sound financial decisions. Together, we will empower Americans to take advantage of the many opportunities they have to attain more financially secure and prosperous futures for themselves and their families.

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 April 2017 as National Financial Capability Month. I call upon all Americans to observe this month by engaging in activities that improve their understanding of important financial decisions.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first 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.



[FR Doc. 2017–06946
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Billing code 3295–F7–P

Presidential Documents

Proclamation 9585 of March 31, 2017

National Sexual Assault Awareness and Prevention Month, 2017

By the President of the United States of America

A Proclamation

At the heart of our country is the emphatic belief that every person has unique and infinite value. We dedicate each April to raising awareness about sexual abuse and recommitting ourselves to fighting it. Women, children, and men have inherent dignity that should never be violated.

According to the Department of Justice, on average there are more than 300,000 instances of rape or other sexual assault that afflict our neighbors and loved ones every year. Behind these painful statistics are real people whose lives are profoundly affected, at times shattered, and who are invariably in need of our help, commitment, and protection.

As we recognize National Sexual Assault Awareness and Prevention Month, we are reminded that we all share the responsibility to reduce and ultimately end sexual violence. As a Nation, we must develop meaningful strategies to eliminate these crimes, including increasing awareness of the problem in our communities, creating systems that protect vulnerable groups, and sharing successful prevention strategies.

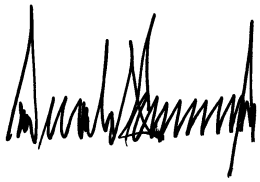
My Administration, including the Department of Justice and the Department of Health and Human Services, will do everything in its power to protect women, children, and men from sexual violence. This includes supporting victims, preventing future abuse, and prosecuting offenders to the full extent of the law. I have already directed the Attorney General to create a task force on crime reduction and public safety. This task force will develop strategies to reduce crime and propose new legislation to fill gaps in existing laws.

Prevention means reducing the prevalence of sexual violence on our streets, in our homes, and in our schools and institutions. Recent research has demonstrated the effectiveness of changing social norms that accept or allow indifference to sexual violence. This can be done by engaging young people to step in and provide peer leadership against condoning violence, and by mobilizing men and boys as allies in preventing sexual and relationship violence. Our families, schools, and communities must encourage respect for women and children, who are the vast majority of victims, and promote healthy personal relationships. We must never give up the fight against the scourge of child pornography and its pernicious effects on both direct victims and the broader culture. We recommit ourselves this month to establishing a culture of respect and appreciation for the dignity of every human being.

There is tremendous work to be done. Together, we can and must protect our loved ones, families, campuses, and communities from the devastating and pervasive effects of sexual assault. In the face of sexual violence, we must commit to providing meaningful support and services for victims and survivors in the United States and around the world.

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 April 2017 as National Sexual Assault Awareness and Prevention Month. I urge all Americans, families, law enforcement, health care providers, community and faith-based organizations, and private organizations to support survivors of sexual assault and work together to prevent these crimes in their communities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first 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.



[FR Doc. 2017–06948
Filed 4–4–17; 11:15 am]
Billing code 3295–F7–P

Presidential Documents

Proclamation 9586 of March 31, 2017

World Autism Awareness Day, 2017

By the President of the United States of America

A Proclamation

On World Autism Awareness Day, we highlight the importance of addressing the causes and improving the treatments for autism spectrum disorders (ASDs). We also recognize the importance of identifying ASDs early in a child's life and of understanding the obstacles faced by people living on the autism spectrum. Together, we celebrate the many ways individuals with ASDs enhance our daily lives and make priceless contributions to our schools, workplaces, and communities.

Autism spectrum disorders affect an estimated one out of every 68 children in America. Individuals and families living with autism come from diverse backgrounds. These families face enormous challenges in assisting their loved ones over the course of their lifetimes. As those with ASDs reach early adulthood, families are often faced with even greater obstacles than during childhood, including planning for the successful transition into adulthood and independent life.

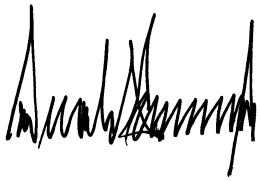
We are hopeful that our Nation's efforts will result in significant advancements related to autism diagnosis and treatments in the months and years ahead. Ongoing efforts to scan the human genome carry significant potential to better manage the disorder and, ultimately, find a cure. My Administration will continue to work with the Congress to implement the 21st Century Cures Act and help to clear the way for breakthroughs in medical science. Together, we will turn scientific discoveries into real solutions for people with complex health issues like autism.

Cutting edge therapies and lifelong treatments can impose enormous burdens and expenses on the families of people with autism spectrum disorders. I applaud the efforts by Members of Congress to enact tax-free savings vehicles for families of people with disabilities and ASDs. I also encourage the ongoing public-private efforts to develop new technologies to prevent wandering and keep individuals with ASDs safe.

For generations, men and women living on the autism spectrum have made extraordinary contributions in the fields of science, technology, art, literature, business, politics, and many other professions. Yet the world still has a great deal to learn about ASDs. We must continue our research to improve early identification and intervention, strengthen our comprehension of the disorder, and open opportunities for every member of our society to live independently and live the American Dream. My Administration is committed to promoting greater knowledge of ASDs and encouraging innovation that will lead to new treatments and cures for autism.

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 Sunday, April 2, 2017, as World Autism Awareness Day. I invite all Americans to Light it Up Blue, which Melania and I will do at the White House. I call upon all Americans to learn more about the signs of autism to improve early diagnosis, understand the challenges faced by those with autism spectrum disorders, and to do what they can to support individuals with autism spectrum disorders and their families.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first 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.



[FR Doc. 2017–06949
Filed 4–4–17; 11:15 am]
Billing code 3295–F7–P

Presidential Documents

Executive Order 13785 of March 31, 2017

Establishing Enhanced Collection and Enforcement of Antidumping and Countervailing Duties and Violations of Trade and Customs Laws

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to promote the efficient and effective administration of United States trade laws, it is hereby ordered as follows:

Section 1. *Policy.* Importers that unlawfully evade antidumping and countervailing duties expose United States employers to unfair competition and deprive the Federal Government of lawful revenue. As of May 2015, $2.3 billion in antidumping and countervailing duties owed to the Government remained uncollected, often from importers that lack assets located in the United States. It is therefore the policy of the United States to impose appropriate bonding requirements, based on risk assessments, on entries of articles subject to antidumping and countervailing duties, when necessary to protect the revenue of the United States.

Sec. 2. *Definitions.* For the purposes of this order:

(a) the term ''importer'' has the meaning given in section 4321 of title 19, United States Code; and

(b) the term ''covered importer'' means any importer of articles subject to antidumping or countervailing duties for which one of the following is true: U.S. Customs and Border Protection (CBP) has no record of previous imports by the importer; CBP has a record of the importer's failure to fully pay antidumping or countervailing duties; or CBP has a record of the importer's failure to pay antidumping or countervailing duties in a timely manner.

Sec. 3. *Implementation Plan Development.* Within 90 days of the date of this order, the Secretary of Homeland Security shall, in consultation with the Secretary of the Treasury, the Secretary of Commerce, and the United States Trade Representative, develop a plan that would require covered importers that, based on a risk assessment conducted by CBP, pose a risk to the revenue of the United States, to provide security for antidumping and countervailing duty liability through bonds and other legal measures, and also would identify other appropriate enforcement measures. This plan shall be consistent with the requirements of section 4321 and section 1623 of title 19, United States Code, and corresponding regulations.

Sec. 4. *Trade and Suspected Customs Law Violations Enforcement.* (a) Within 90 days of the date of this order, the Secretary of Homeland Security, through the Commissioner of CBP, shall develop and implement a strategy and plan for combating violations of United States trade and customs laws for goods and for enabling interdiction and disposal, including through methods other than seizure, of inadmissible merchandise entering through any mode of transportation, to the extent authorized by law.

(b) To ensure the timely and efficient enforcement of laws protecting Intellectual Property Rights (IPR) holders from the importation of counterfeit goods, the Secretary of the Treasury and the Secretary of Homeland Security shall take all appropriate steps, including rulemaking if necessary, to ensure that CBP can, consistent with law, share with rights holders:

(i) any information necessary to determine whether there has been an IPR infringement or violation; and

(ii) any information regarding merchandise voluntarily abandoned, as defined in section 127.12 of title 19, Code of Federal Regulations, before seizure, if the Commissioner of CBP reasonably believes that the successful importation of the merchandise would have violated United States trade laws.

Sec. 5. *Priority Enforcement.* The Attorney General, in consultation with the Secretary of Homeland Security, shall develop recommended prosecution practices and allocate appropriate resources to ensure that Federal prosecutors accord a high priority to prosecuting significant offenses related to violations of trade laws.

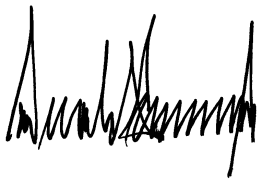
Sec. 6. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
March 31, 2017.

[FR Doc. 2017–06967
Filed 4–4–17; 11:15 am]
Billing code 3295–F7–P

Presidential Documents

Executive Order 13786 of March 31, 2017

Omnibus Report on Significant Trade Deficits

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to ensure the informed exercise of the authority over international trade granted to me by law, it is hereby ordered as follows:

Section 1. *Policy.* Free and fair trade is critical to the Nation's prosperity, national security, and foreign policy. It is in America's economic and national security interests to promote commerce by strengthening our relationships with our trading partners, vigorously enforcing our Nation's trade laws, improving the overall conditions for competition and trade, and ensuring the strength of our manufacturing and defense industrial bases.

For many years, the United States has not obtained the full scope of benefits anticipated under a number of international trade agreements or from participating in the World Trade Organization. The United States annual trade deficit in goods exceeds $700 billion, and the overall trade deficit exceeded $500 billion in 2016.

The United States must address the challenges to economic growth and employment that may arise from large and chronic trade deficits and the unfair and discriminatory trade practices of some of our trading partners. Unfair and discriminatory practices by our trading partners can deny Americans the benefits that would otherwise accrue from free and fair trade, unduly restrict the commerce of the United States, and put the commerce of the United States at a disadvantage compared to that of foreign countries. To address these challenges, it is essential that policy makers and the persons representing the United States in trade negotiations have access to current and comprehensive information regarding unfair trade practices and the causes of United States trade deficits.

Sec. 2. *Report.* Within 90 days of the date of this order, the Secretary of Commerce and the United States Trade Representative (USTR), in consultation with the Secretaries of State, the Treasury, Defense, Agriculture, and Homeland Security, and the heads of any other executive departments or agencies with relevant expertise, as determined by the Secretary of Commerce and the USTR, shall prepare and submit to the President an Omnibus Report on Significant Trade Deficits (Report). To aid in preparing the Report, the Secretary of Commerce and the USTR may hold public meetings and seek comments from relevant State, local, and non-governmental stakeholders, including manufacturers, workers, consumers, service providers, farmers, and ranchers. The Report shall identify those foreign trading partners with which the United States had a significant trade deficit in goods in 2016. For each identified trading partner, the Report shall:

(a) assess the major causes of the trade deficit, including, as applicable, differential tariffs, non-tariff barriers, injurious dumping, injurious government subsidization, intellectual property theft, forced technology transfer, denial of worker rights and labor standards, and any other form of discrimination against the commerce of the United States or other factors contributing to the deficit;

(b) assess whether the trading partner is, directly or indirectly, imposing unequal burdens on, or unfairly discriminating in fact against, the commerce of the United States by law, regulation, or practice and thereby placing the commerce of the United States at an unfair disadvantage;

(c) assess the effects of the trade relationship on the production capacity and strength of the manufacturing and defense industrial bases of the United States;

(d) assess the effects of the trade relationship on employment and wage growth in the United States; and

(e) identify imports and trade practices that may be impairing the national security of the United States.

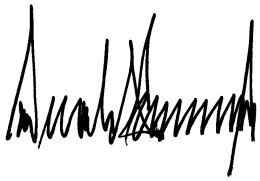
Sec. 3. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
March 31, 2017.

[FR Doc. 2017–06968
Filed 4–4–17; 11:15 am]
Billing code 3295–F7–P

Presidential Documents

Executive Order 13787 of March 31, 2017

Providing an Order of Succession Within the Department of Justice

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.,* it is hereby ordered that:

Section 1. *Order of Succession.* Subject to the provisions of section 2 of this order, the following officers, in the order listed, shall act as and perform the functions and duties of the office of Attorney General during any period in which the Attorney General, the Deputy Attorney General, the Associate Attorney General, and any officers designated by the Attorney General pursuant to 28 U.S.C. 508 to act as Attorney General, have died, resigned, or otherwise become unable to perform the functions and duties of the office of Attorney General, until such time as at least one of the officers mentioned above is able to perform the functions and duties of that office:

(a) United States Attorney for the Eastern District of Virginia;

(b) United States Attorney for the Eastern District of North Carolina; and

(c) United States Attorney for the Northern District of Texas.

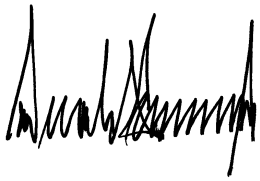
Sec. 2. *Exceptions.* (a) No individual who is serving in an office listed in section 1 of this order in an acting capacity, by virtue of so serving, shall act as Attorney General pursuant to this order.

(b) No individual listed in section 1 shall act as Attorney General unless that individual is otherwise eligible to so serve under the Federal Vacancies Reform Act of 1998.

(c) Notwithstanding the provisions of this order, the President retains discretion, to the extent permitted by law, to depart from this order in designating an acting Attorney General.

Sec. 3. *Revocation of Executive Order.* Executive Order 13775 of February 9, 2017, is revoked.

Sec. 4. *General Provision.* This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
March 31, 2017.

[FR Doc. 2017–06971
Filed 4–4–17; 11:15 am]
Billing code 3295–F7–P

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Federal Register

Vol. 82, No. 64

Wednesday, April 5, 2017

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FEDERAL REGISTER PAGES AND DATE, APRIL

16101–16286 3
16287–16508 4
16509–16724 5

CFR PARTS AFFECTED DURING APRIL

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
9581 16707
9582 16709
9583 16711
9584 16713
9585 16715
9586 16717

Executive Orders:
13775 (Revoked by EO 13787) 16723
13784 16279
13785 16719
13786 16721
13787 16723

Administrative Orders:
Memorandums:
Memorandum of March 6, 2017 16283

7 CFR

1436 16101

12 CFR

Proposed Rules:
1002 16307

14 CFR

39 16101

Proposed Rules:
39 16138
71 16140

15 CFR

902 16478

20 CFR

401 16509

21 CFR

Proposed Rules:
73 16321

22 CFR

Proposed Rules:
96 16322

30 CFR

Proposed Rules:
1202 ..... 16323, 16325
1206 ..... 16323, 16325

33 CFR

100 16105
117 ..... 16105, 16106
165 ..... 16107, 16109, 16111, 16112, 16114, 16510
167 16510
183 16512

Proposed Rules:
165 ..... 16142, 16327

38 CFR

17 16287

40 CFR

Proposed Rules:
60 ..... 16144, 16329, 16330, 16331
68 16146

42 CFR

447 16114

Proposed Rules:
409 16150
410 16150
418 16150
440 16150
484 16150
485 16150
488 16150

44 CFR

64 16122

45 CFR

500 16124
510 16124

46 CFR

530 16288
531 16288

Proposed Rules:
401 16542
403 16542
404 16542

47 CFR

1 16297
54 ..... 16127, 16297

Proposed Rules:
36 16152

48 CFR

Proposed Rules:
816 16332
828 16332
852 16332

49 CFR

209 16127
213 16127
214 16127
215 16127
216 16127
217 16127
218 16127
219 16127
220 16127
221 16127
222 16127
223 16127
224 16127
225 16127

227 16127
228 16127
229 16127
230 16127
231 16127
232 16127
233 16127
234 16127
235 16127
236 16127
237 16127
238 16127
239 16127
240 16127
241 16127
242 16127
243 16127
244 16127
270 16127
272 16127

Proposed Rules:

1104 16550
1109 16550
1111 16550
1114 16550
1130 16550

50 CFR

15 16522
17 ....16522, 16668
92 16298
635 ....16136, 16478
679 ....16306, 16540

Proposed Rules:

17 16559

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List April 4, 2017

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