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Presidential Documents

Title 3—

The President

Executive Order 13799 of May 11, 2017

Establishment of Presidential Advisory Commission on Election Integrity

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 fair and honest Federal elections, it is hereby ordered as follows:

Section 1. *Establishment.* The Presidential Advisory Commission on Election Integrity (Commission) is hereby established.

Sec. 2. *Membership.* The Vice President shall chair the Commission, which shall be composed of not more than 15 additional members. The President shall appoint the additional members, who shall include individuals with knowledge and experience in elections, election management, election fraud detection, and voter integrity efforts, and any other individuals with knowledge or experience that the President determines to be of value to the Commission. The Vice President may select a Vice Chair of the Commission from among the members appointed by the President.

Sec. 3. *Mission.* The Commission shall, consistent with applicable law, study the registration and voting processes used in Federal elections. The Commission shall be solely advisory and shall submit a report to the President that identifies the following:

(a) those laws, rules, policies, activities, strategies, and practices that enhance the American people's confidence in the integrity of the voting processes used in Federal elections;

(b) those laws, rules, policies, activities, strategies, and practices that undermine the American people's confidence in the integrity of the voting processes used in Federal elections; and

(c) those vulnerabilities in voting systems and practices used for Federal elections that could lead to improper voter registrations and improper voting, including fraudulent voter registrations and fraudulent voting.

Sec. 4. *Definitions.* For purposes of this order:

(a) The term ''improper voter registration'' means any situation where an individual who does not possess the legal right to vote in a jurisdiction is included as an eligible voter on that jurisdiction's voter list, regardless of the state of mind or intent of such individual.

(b) The term ''improper voting'' means the act of an individual casting a non-provisional ballot in a jurisdiction in which that individual is ineligible to vote, or the act of an individual casting a ballot in multiple jurisdictions, regardless of the state of mind or intent of that individual.

(c) The term ''fraudulent voter registration'' means any situation where an individual knowingly and intentionally takes steps to add ineligible individuals to voter lists.

(d) The term ''fraudulent voting'' means the act of casting a non-provisional ballot or multiple ballots with knowledge that casting the ballot or ballots is illegal.

Sec. 5. *Administration.* The Commission shall hold public meetings and engage with Federal, State, and local officials, and election law experts, as necessary, to carry out its mission. The Commission shall be informed by, and shall strive to avoid duplicating, the efforts of existing government entities. The Commission shall have staff to provide support for its functions.

Sec. 6. *Termination*. The Commission shall terminate 30 days after it submits its report to the President.

Sec. 7. *General Provisions*. (a) To the extent permitted by law, and subject to the availability of appropriations, the General Services Administration shall provide the Commission with such administrative services, funds, facilities, staff, equipment, and other support services as may be necessary to carry out its mission on a reimbursable basis.

(b) Relevant executive departments and agencies shall endeavor to cooperate with the Commission.

(c) Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (the ''Act''), may apply to the Commission, any functions of the President under that Act, except for those in section 6 of the Act, shall be performed by the Administrator of General Services.

(d) Members of the Commission shall serve without any additional compensation for their work on the Commission, but shall be allowed travel expenses, including per diem in lieu of subsistence, to the extent permitted by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707).

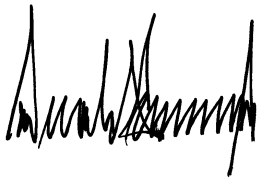
(e) Nothing in this order shall be construed to impair or otherwise affect:

(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.

(f) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(g) 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,

May 11, 2017.

[FR Doc. 2017–10003

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Presidential Documents

Executive Order 13800 of May 11, 2017

Strengthening the Cybersecurity of Federal Networks and Critical Infrastructure

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to protect American innovation and values, it is hereby ordered as follows:

Section 1. *Cybersecurity of Federal Networks.*

(a) *Policy.* The executive branch operates its information technology (IT) on behalf of the American people. Its IT and data should be secured responsibly using all United States Government capabilities. The President will hold heads of executive departments and agencies (agency heads) accountable for managing cybersecurity risk to their enterprises. In addition, because risk management decisions made by agency heads can affect the risk to the executive branch as a whole, and to national security, it is also the policy of the United States to manage cybersecurity risk as an executive branch enterprise.

(b) *Findings.*

(i) Cybersecurity risk management comprises the full range of activities undertaken to protect IT and data from unauthorized access and other cyber threats, to maintain awareness of cyber threats, to detect anomalies and incidents adversely affecting IT and data, and to mitigate the impact of, respond to, and recover from incidents. Information sharing facilitates and supports all of these activities.

(ii) The executive branch has for too long accepted antiquated and difficult-to-defend IT.

(iii) Effective risk management involves more than just protecting IT and data currently in place. It also requires planning so that maintenance, improvements, and modernization occur in a coordinated way and with appropriate regularity.

(iv) Known but unmitigated vulnerabilities are among the highest cybersecurity risks faced by executive departments and agencies (agencies). Known vulnerabilities include using operating systems or hardware beyond the vendor's support lifecycle, declining to implement a vendor's security patch, or failing to execute security-specific configuration guidance.

(v) Effective risk management requires agency heads to lead integrated teams of senior executives with expertise in IT, security, budgeting, acquisition, law, privacy, and human resources.

(c) *Risk Management.*

(i) Agency heads will be held accountable by the President for implementing risk management measures commensurate with the risk and magnitude of the harm that would result from unauthorized access, use, disclosure, disruption, modification, or destruction of IT and data. They will also be held accountable by the President for ensuring that cybersecurity risk management processes are aligned with strategic, operational, and budgetary planning processes, in accordance with chapter 35, subchapter II of title 44, United States Code.

(ii) Effective immediately, each agency head shall use *The Framework for Improving Critical Infrastructure Cybersecurity* (the Framework) developed by the National Institute of Standards and Technology, or any successor document, to manage the agency's cybersecurity risk. Each agency head shall provide a risk management report to the Secretary of Homeland Security and the Director of the Office of Management and Budget (OMB) within 90 days of the date of this order. The risk management report shall:

(A) document the risk mitigation and acceptance choices made by each agency head as of the date of this order, including:

(1) the strategic, operational, and budgetary considerations that informed those choices; and

(2) any accepted risk, including from unmitigated vulnerabilities; and

(B) describe the agency's action plan to implement the Framework.

(iii) The Secretary of Homeland Security and the Director of OMB, consistent with chapter 35, subchapter II of title 44, United States Code, shall jointly assess each agency's risk management report to determine whether the risk mitigation and acceptance choices set forth in the reports are appropriate and sufficient to manage the cybersecurity risk to the executive branch enterprise in the aggregate (the determination).

(iv) The Director of OMB, in coordination with the Secretary of Homeland Security, with appropriate support from the Secretary of Commerce and the Administrator of General Services, and within 60 days of receipt of the agency risk management reports outlined in subsection (c)(ii) of this section, shall submit to the President, through the Assistant to the President for Homeland Security and Counterterrorism, the following:

(A) the determination; and

(B) a plan to:

(1) adequately protect the executive branch enterprise, should the determination identify insufficiencies;

(2) address immediate unmet budgetary needs necessary to manage risk to the executive branch enterprise;

(3) establish a regular process for reassessing and, if appropriate, reissuing the determination, and addressing future, recurring unmet budgetary needs necessary to manage risk to the executive branch enterprise;

(4) clarify, reconcile, and reissue, as necessary and to the extent permitted by law, all policies, standards, and guidelines issued by any agency in furtherance of chapter 35, subchapter II of title 44, United States Code, and, as necessary and to the extent permitted by law, issue policies, standards, and guidelines in furtherance of this order; and

(5) align these policies, standards, and guidelines with the Framework.

(v) The agency risk management reports described in subsection (c)(ii) of this section and the determination and plan described in subsections (c)(iii) and (iv) of this section may be classified in full or in part, as appropriate.

(vi) Effective immediately, it is the policy of the executive branch to build and maintain a modern, secure, and more resilient executive branch IT architecture.

(A) Agency heads shall show preference in their procurement for shared IT services, to the extent permitted by law, including email, cloud, and cybersecurity services.

(B) The Director of the American Technology Council shall coordinate a report to the President from the Secretary of Homeland Security, the Director of OMB, and the Administrator of General Services, in consultation with the Secretary of Commerce, as appropriate, regarding modernization of Federal IT. The report shall:

(1) be completed within 90 days of the date of this order; and

(2) describe the legal, policy, and budgetary considerations relevant to—as well as the technical feasibility and cost effectiveness, including timelines and milestones, of—transitioning all agencies, or a subset of agencies, to:

(aa) one or more consolidated network architectures; and

(bb) shared IT services, including email, cloud, and cybersecurity services.

(C) The report described in subsection (c)(vi)(B) of this section shall assess the effects of transitioning all agencies, or a subset of agencies, to shared IT services with respect to cybersecurity, including by making recommendations to ensure consistency with section 227 of the Homeland Security Act (6 U.S.C. 148) and compliance with policies and practices issued in accordance with section 3553 of title 44, United States Code. All agency heads shall supply such information concerning their current IT architectures and plans as is necessary to complete this report on time.

(vii) For any National Security System, as defined in section 3552(b)(6) of title 44, United States Code, the Secretary of Defense and the Director of National Intelligence, rather than the Secretary of Homeland Security and the Director of OMB, shall implement this order to the maximum extent feasible and appropriate. The Secretary of Defense and the Director of National Intelligence shall provide a report to the Assistant to the President for National Security Affairs and the Assistant to the President for Homeland Security and Counterterrorism describing their implementation of subsection (c) of this section within 150 days of the date of this order. The report described in this subsection shall include a justification for any deviation from the requirements of subsection (c), and may be classified in full or in part, as appropriate.

Sec. 2. *Cybersecurity of Critical Infrastructure*.

(a) *Policy*. It is the policy of the executive branch to use its authorities and capabilities to support the cybersecurity risk management efforts of the owners and operators of the Nation's critical infrastructure (as defined in section 5195c(e) of title 42, United States Code) (critical infrastructure entities), as appropriate.

(b) *Support to Critical Infrastructure at Greatest Risk*. The Secretary of Homeland Security, in coordination with the Secretary of Defense, the Attorney General, the Director of National Intelligence, the Director of the Federal Bureau of Investigation, the heads of appropriate sector-specific agencies, as defined in Presidential Policy Directive 21 of February 12, 2013 (Critical Infrastructure Security and Resilience) (sector-specific agencies), and all other appropriate agency heads, as identified by the Secretary of Homeland Security, shall:

(i) identify authorities and capabilities that agencies could employ to support the cybersecurity efforts of critical infrastructure entities identified pursuant to section 9 of Executive Order 13636 of February 12, 2013 (Improving Critical Infrastructure Cybersecurity), to be at greatest risk of attacks that could reasonably result in catastrophic regional or national effects on public health or safety, economic security, or national security (section 9 entities);

(ii) engage section 9 entities and solicit input as appropriate to evaluate whether and how the authorities and capabilities identified pursuant to subsection (b)(i) of this section might be employed to support cybersecurity risk management efforts and any obstacles to doing so;

(iii) provide a report to the President, which may be classified in full or in part, as appropriate, through the Assistant to the President for Homeland Security and Counterterrorism, within 180 days of the date of this order, that includes the following:

(A) the authorities and capabilities identified pursuant to subsection (b)(i) of this section;

(B) the results of the engagement and determination required pursuant to subsection (b)(ii) of this section; and

(C) findings and recommendations for better supporting the cybersecurity risk management efforts of section 9 entities; and

(iv) provide an updated report to the President on an annual basis thereafter.

(c) *Supporting Transparency in the Marketplace*. The Secretary of Homeland Security, in coordination with the Secretary of Commerce, shall provide a report to the President, through the Assistant to the President for Homeland Security and Counterterrorism, that examines the sufficiency of existing Federal policies and practices to promote appropriate market transparency of cybersecurity risk management practices by critical infrastructure entities, with a focus on publicly traded critical infrastructure entities, within 90 days of the date of this order.

(d) *Resilience Against Botnets and Other Automated, Distributed Threats*. The Secretary of Commerce and the Secretary of Homeland Security shall jointly lead an open and transparent process to identify and promote action by appropriate stakeholders to improve the resilience of the internet and communications ecosystem and to encourage collaboration with the goal of dramatically reducing threats perpetrated by automated and distributed attacks (e.g., botnets). The Secretary of Commerce and the Secretary of Homeland Security shall consult with the Secretary of Defense, the Attorney General, the Director of the Federal Bureau of Investigation, the heads of sector-specific agencies, the Chairs of the Federal Communications Commission and Federal Trade Commission, other interested agency heads, and appropriate stakeholders in carrying out this subsection. Within 240 days of the date of this order, the Secretary of Commerce and the Secretary of Homeland Security shall make publicly available a preliminary report on this effort. Within 1 year of the date of this order, the Secretaries shall submit a final version of this report to the President.

(e) *Assessment of Electricity Disruption Incident Response Capabilities*. The Secretary of Energy and the Secretary of Homeland Security, in consultation with the Director of National Intelligence, with State, local, tribal, and territorial governments, and with others as appropriate, shall jointly assess:

(i) the potential scope and duration of a prolonged power outage associated with a significant cyber incident, as defined in Presidential Policy Directive 41 of July 26, 2016 (United States Cyber Incident Coordination), against the United States electric subsector;

(ii) the readiness of the United States to manage the consequences of such an incident; and

(iii) any gaps or shortcomings in assets or capabilities required to mitigate the consequences of such an incident.

The assessment shall be provided to the President, through the Assistant to the President for Homeland Security and Counterterrorism, within 90 days of the date of this order, and may be classified in full or in part, as appropriate.

(f) *Department of Defense Warfighting Capabilities and Industrial Base*. Within 90 days of the date of this order, the Secretary of Defense, the Secretary of Homeland Security, and the Director of the Federal Bureau of Investigation, in coordination with the Director of National Intelligence, shall provide a report to the President, through the Assistant to the President for National Security Affairs and the Assistant to the President for Homeland Security and Counterterrorism, on cybersecurity risks facing the defense

industrial base, including its supply chain, and United States military platforms, systems, networks, and capabilities, and recommendations for mitigating these risks. The report may be classified in full or in part, as appropriate.

Sec. 3. *Cybersecurity for the Nation*.

(a) *Policy*. To ensure that the internet remains valuable for future generations, it is the policy of the executive branch to promote an open, interoperable, reliable, and secure internet that fosters efficiency, innovation, communication, and economic prosperity, while respecting privacy and guarding against disruption, fraud, and theft. Further, the United States seeks to support the growth and sustainment of a workforce that is skilled in cybersecurity and related fields as the foundation for achieving our objectives in cyberspace.

(b) *Deterrence and Protection*. Within 90 days of the date of this order, the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Attorney General, the Secretary of Commerce, the Secretary of Homeland Security, and the United States Trade Representative, in coordination with the Director of National Intelligence, shall jointly submit a report to the President, through the Assistant to the President for National Security Affairs and the Assistant to the President for Homeland Security and Counterterrorism, on the Nation's strategic options for deterring adversaries and better protecting the American people from cyber threats.

(c) *International Cooperation*. As a highly connected nation, the United States is especially dependent on a globally secure and resilient internet and must work with allies and other partners toward maintaining the policy set forth in this section. Within 45 days of the date of this order, the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Secretary of Commerce, and the Secretary of Homeland Security, in coordination with the Attorney General and the Director of the Federal Bureau of Investigation, shall submit reports to the President on their international cybersecurity priorities, including those concerning investigation, attribution, cyber threat information sharing, response, capacity building, and cooperation. Within 90 days of the submission of the reports, and in coordination with the agency heads listed in this subsection, and any other agency heads as appropriate, the Secretary of State shall provide a report to the President, through the Assistant to the President for Homeland Security and Counterterrorism, documenting an engagement strategy for international cooperation in cybersecurity.

(d) *Workforce Development*. In order to ensure that the United States maintains a long-term cybersecurity advantage:

(i) The Secretary of Commerce and the Secretary of Homeland Security, in consultation with the Secretary of Defense, the Secretary of Labor, the Secretary of Education, the Director of the Office of Personnel Management, and other agencies identified jointly by the Secretary of Commerce and the Secretary of Homeland Security, shall:

(A) jointly assess the scope and sufficiency of efforts to educate and train the American cybersecurity workforce of the future, including cybersecurity-related education curricula, training, and apprenticeship programs, from primary through higher education; and

(B) within 120 days of the date of this order, provide a report to the President, through the Assistant to the President for Homeland Security and Counterterrorism, with findings and recommendations regarding how to support the growth and sustainment of the Nation's cybersecurity workforce in both the public and private sectors.

(ii) The Director of National Intelligence, in consultation with the heads of other agencies identified by the Director of National Intelligence, shall:

(A) review the workforce development efforts of potential foreign cyber peers in order to help identify foreign workforce development practices likely to affect long-term United States cybersecurity competitiveness; and

(B) within 60 days of the date of this order, provide a report to the President through the Assistant to the President for Homeland Security and Counterterrorism on the findings of the review carried out pursuant to subsection (d)(ii)(A) of this section.

(iii) The Secretary of Defense, in coordination with the Secretary of Commerce, the Secretary of Homeland Security, and the Director of National Intelligence, shall:

(A) assess the scope and sufficiency of United States efforts to ensure that the United States maintains or increases its advantage in national-security-related cyber capabilities; and

(B) within 150 days of the date of this order, provide a report to the President, through the Assistant to the President for Homeland Security and Counterterrorism, with findings and recommendations on the assessment carried out pursuant to subsection (d)(iii)(A) of this section.

(iv) The reports described in this subsection may be classified in full or in part, as appropriate.

Sec. 4. *Definitions*. For the purposes of this order:

(a) The term ''appropriate stakeholders'' means any non-executive-branch person or entity that elects to participate in an open and transparent process established by the Secretary of Commerce and the Secretary of Homeland Security under section 2(d) of this order.

(b) The term ''information technology'' (IT) has the meaning given to that term in section 11101(6) of title 40, United States Code, and further includes hardware and software systems of agencies that monitor and control physical equipment and processes.

(c) The term ''IT architecture'' refers to the integration and implementation of IT within an agency.

(d) The term ''network architecture'' refers to the elements of IT architecture that enable or facilitate communications between two or more IT assets.

Sec. 5. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

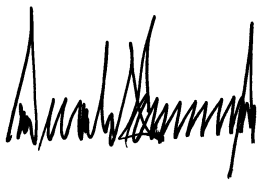
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of OMB 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) All actions taken pursuant to this order shall be consistent with requirements and authorities to protect intelligence and law enforcement sources and methods. Nothing in this order shall be construed to supersede measures established under authority of law to protect the security and integrity of specific activities and associations that are in direct support of intelligence or law enforcement operations.

(d) 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,
May 11, 2017.

[FR Doc. 2017–10004
Filed 5–15–17; 8:45 am]
Billing code 3295–F7–P

Rules and Regulations

Federal Register
Vol. 82, No. 93
Tuesday, May 16, 2017

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2017–0371; Special Conditions No. 25–672–SC]

Special Conditions: Airbus, Model A380–800 Series Airplanes; Non-Rechargeable Lithium Battery Installations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comment.

SUMMARY: These special conditions are issued for non-rechargeable lithium battery installations on the Airbus Model A380–800 series airplanes. Non-rechargeable lithium batteries are a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Airbus on May 16, 2017. We must receive your comments by June 30, 2017.

ADDRESSES: Send comments identified by docket number FAA–2017–0371 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Nazih Khaouly, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2432; facsimile 425–227–1149.

SUPPLEMENTARY INFORMATION:

Future Requests for Installation of Non-Rechargeable Lithium Batteries

The FAA anticipates that non-rechargeable lithium batteries will be installed in most makes and models of transport category airplanes. We intend to require special conditions for certification projects involving non-rechargeable lithium battery installations to address certain safety issues until we can revise the airworthiness requirements. Applying special conditions to these installations across the range of transport category airplanes will ensure regulatory consistency.

Typically, the FAA issues special conditions after receiving an application for type certificate approval of a novel or unusual design feature. However, the FAA has found that the presence of non-rechargeable lithium batteries in certification projects is not always immediately identifiable, since the battery itself may not be the focus of the project. Meanwhile, the inclusion of these batteries has become virtually ubiquitous on in-production transport category airplanes, which shows that there will be a need for these special conditions. Also, delaying the issuance of special conditions until after each design application is received could lead to costly certification delays. Therefore the FAA finds it necessary to issue special conditions applicable to these battery installations on particular makes and models of aircraft.

On April 22, 2016, the FAA published special conditions no. 25–612–SC in the **Federal Register** (81 FR 23573) applicable to Gulfstream Aerospace Corporation for the GVI airplane. Those were the first special conditions the FAA issued for non-rechargeable lithium battery installations. We explained in that document our decision to make those special conditions effective one year after publication in the **Federal Register**, which is April 22, 2017. In those special conditions, the FAA stated its intention to apply non-rechargeable lithium battery special conditions to design changes on other makes and models applied for after this same date.

Section 1205 of the FAA Reauthorization Act of 1996 requires the FAA to consider the extent to which Alaska is not served by transportation modes other than aviation and to establish appropriate regulatory distinctions when modifying airworthiness regulations that affect intrastate aviation in Alaska. In consideration of this requirement and the overall impact on safety, the FAA does not intend to require non-rechargeable lithium battery special conditions for design changes that only replace a 121.5 megahertz (MHz) emergency locator transmitter (ELT) with a 406 MHz ELT that meets Technical Standard Order C126b, or later revision, on transport airplanes operating only in Alaska. This will support our efforts of encouraging operators in Alaska to upgrade to a 406

MHz ELT. These ELTs provide significantly improved accuracy for lifesaving services to locate an accident site in Alaskan terrain. The FAA considers that the safety benefits from upgrading to a 406 MHz ELT for Alaskan operations will outweigh the battery fire risk.

Comments Invited

The substance of these special conditions has been subjected to the notice and comment period in prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon publication in the **Federal Register**. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

Airbus holds type certificate no. A58NM, which provides the certification basis for the A380–800 series airplanes. The A380–800 series airplanes are four engine, transport category airplanes with a passenger seating capacity of 853 and a maximum takeoff weight of 1,124,400 to 1,254,400 pounds, depending on the specific design.

The FAA is issuing these special conditions for non-rechargeable lithium battery installations on the A380–800 series airplanes. The current battery requirements in title 14, Code of Federal Regulations (14 CFR) part 25 are inadequate for addressing an airplane with non-rechargeable lithium batteries.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Airbus must show that the A380–800 series airplanes meet the applicable provisions of the regulations listed in type certificate no. A58NM or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA. In addition, the certification basis includes certain special conditions, exemptions, or later amended sections that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the A380–800 series airplanes because of a novel design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the airplane model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the A380–800 series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Feature

The novel or unusual design feature is the installation of non-rechargeable lithium batteries.

For the purpose of these special conditions, we refer to a battery and battery system as a battery. A battery system consists of the battery and any protective, monitoring, and alerting circuitry or hardware inside or outside of the battery. It also includes vents (where necessary) and packaging.

Discussion

The FAA derived the current regulations governing installation of batteries in transport category airplanes from Civil Air Regulations (CAR) 4b.625(d) as part of the recodification of CAR 4b that established 14 CFR part 25 in February 1965. This recodification basically reworded the CAR 4b battery requirements, which are currently in § 25.1353(b)(1) through (4). Non-rechargeable lithium batteries are novel and unusual with respect to the state of technology considered when these requirements were codified. These batteries introduce higher energy levels into airplane systems through new chemical compositions in various battery cell sizes and construction. Interconnection of these cells in battery packs introduces failure modes that require unique design considerations, such as provisions for thermal management.

Recent events involving rechargeable and non-rechargeable lithium batteries prompted the FAA to initiate a broad evaluation of these energy storage technologies. In January 2013, two independent events involving rechargeable lithium-ion batteries revealed unanticipated failure modes. A National Transportation Safety Board (NTSB) letter to the FAA, dated May 22, 2014, which is available at *http://www.ntsb.gov,* filename A–14–032–036.pdf, describes these events.

On July 12, 2013, an event involving a non-rechargeable lithium battery in an emergency locator transmitter installation demonstrated unanticipated failure modes. The United Kingdom's Air Accidents Investigation Branch Bulletin S5/2013 describes this event.

Some known uses of rechargeable and non-rechargeable lithium batteries on airplanes include:

- Flight deck and avionics systems such as displays, global positioning systems, cockpit voice recorders, flight data recorders, underwater locator beacons, navigation computers, integrated avionics computers, satellite network and communication systems, communication management units, and remote-monitor electronic line-replaceable units;
- Cabin safety, entertainment, and communications equipment, including emergency locator transmitters, life rafts, escape slides, seatbelt air bags, cabin management systems, Ethernet switches, routers and media servers, wireless systems, internet and in-flight entertainment systems, satellite televisions, remotes, and handsets;
- Systems in cargo areas including door controls, sensors, video surveillance equipment, and security systems.

Some known potential hazards and failure modes associated with non-rechargeable lithium batteries are:

- *Internal failures:* In general, these batteries are significantly more susceptible to internal failures that can result in self-sustaining increases in temperature and pressure (*i.e.,* thermal runaway) than their nickel-cadmium or lead-acid counterparts. The metallic lithium can ignite, resulting in a self-sustaining fire or explosion.

• *Fast or imbalanced discharging:* Fast discharging or an imbalanced discharge of one cell of a multi-cell battery may create an overheating condition that results in an uncontrollable venting condition, which in turn leads to a thermal event or an explosion.

• *Flammability:* Unlike nickel-cadmium and lead-acid batteries, lithium batteries use higher energy and current in an electrochemical system that can be configured to maximize energy storage of lithium. They also use liquid electrolytes that can be extremely flammable. The electrolyte, as well as the electrodes, can serve as a source of fuel for an external fire if the battery casing is breached.

Special condition no. 1 of these special conditions requires that each individual cell within a non-rechargeable lithium battery be designed to maintain safe temperatures and pressures. Special condition no. 2 addresses these same issues but for the entire battery. Special condition no. 2 requires the battery be designed to prevent propagation of a thermal event, such as self-sustained, uncontrollable increases in temperature or pressure from one cell to adjacent cells.

Special conditions nos. 1 and 2 are intended to ensure that the non-rechargeable lithium battery and its cells are designed to eliminate the potential for uncontrollable failures. However, a certain number of failures will occur due to various factors beyond the control of the battery designer. Therefore, other special conditions are intended to protect the airplane and its occupants if failure occurs.

Special conditions 3, 7, and 8 are self-explanatory.

Special condition no. 4 makes it clear that the flammable fluid fire protection requirements of § 25.863 apply to non-rechargeable lithium battery installations. Section 25.863 is applicable to areas of the airplane that could be exposed to flammable fluid leakage from airplane systems. Non-rechargeable lithium batteries contain an electrolyte that is a flammable fluid.

Special condition no. 5 requires that each non-rechargeable lithium battery installation not damage surrounding structure or adjacent systems, equipment, or electrical wiring from corrosive fluids or gases that may escape in such a way as to cause a major or more severe failure condition.

While special condition no. 5 addresses corrosive fluids and gases, special condition no. 6 addresses heat. Special condition no. 6 requires that each non-rechargeable lithium battery installation have provisions to prevent any hazardous effect on airplane structure or systems caused by the maximum amount of heat the battery installation can generate due to any failure of it or its individual cells. The means of meeting special conditions nos. 5 and 6 may be the same, but the requirements are independent and address different hazards.

These special conditions apply to all non-rechargeable lithium battery installations in lieu of § 25.1353(b)(1) through (4) at Amendment 25–123 or § 25.1353(c)(1) through (4) at earlier amendments. Those regulations remain in effect for other battery installations.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

These special conditions are applicable to the A380–800 series airplanes. Should Airbus apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

These special conditions are only applicable to design changes applied for after the effective date.

These special conditions are not applicable to changes to previously certified non-rechargeable lithium battery installations where the only change is either cosmetic or to relocate the installation to improve the safety of the airplane and occupants. Previously certified non-rechargeable lithium battery installations, as used in this paragraph, are those installations approved for certification projects applied for on or before the effective date of these special conditions. A cosmetic change is a change in appearance only, and does not change any function or safety characteristic of the battery installation. These special conditions are also not applicable to unchanged, previously certified non-rechargeable lithium battery installations that are affected by a change in a manner that improves the safety of its installation. The FAA determined that these exclusions are in the public interest because the need to meet all of the special conditions might otherwise deter these design changes that improve safety.

Conclusion

This action affects only a certain novel or unusual design feature on one model of airplane. It is not a rule of general applicability.

The substance of these special conditions has been subjected to the notice and comment period in prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon publication in the **Federal Register**. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and record keeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Airbus Model A380–800 series airplanes.

Non-Rechargeable Lithium Battery Installations

In lieu of § 25.1353(b)(1) through (4) at Amendment 25–123 or § 25.1353(c)(1) through (4) at earlier amendments, each non-rechargeable lithium battery installation must:

1. Be designed to maintain safe cell temperatures and pressures under all foreseeable operating conditions to prevent fire and explosion.

2. Be designed to prevent the occurrence of self-sustaining, uncontrollable increases in temperature or pressure.

3. Not emit explosive or toxic gases, either in normal operation or as a result of its failure, that may accumulate in hazardous quantities within the airplane.

4. Meet the requirements of § 25.863.

5. Not damage surrounding structure or adjacent systems, equipment, or electrical wiring from corrosive fluids or gases that may escape in such a way as to cause a major or more severe failure condition.

6. Have provisions to prevent any hazardous effect on airplane structure or systems caused by the maximum amount of heat it can generate due to any failure of it or its individual cells.

7. Have a failure sensing and warning system to alert the flightcrew if its failure affects safe operation of the airplane.

8. Have a means for the flightcrew or maintenance personnel to determine the battery charge state if the battery's function is required for safe operation of the airplane.

Note: A battery system consists of the battery and any protective, monitoring, and alerting circuitry or hardware inside or outside of the battery. It also includes vents (where necessary) and packaging. For the purpose of these special conditions, a ''battery'' and ''battery system'' are referred to as a battery.

Issued in Renton, Washington, on May 9, 2017.

Michael Kaszycki,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–09840 Filed 5–15–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2017–0385; Special Conditions No. 25–675–SC]

Special Conditions: The Boeing Company, Model 747–8 Series Airplanes; Non-Rechargeable Lithium Battery Installations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comment.

SUMMARY: These special conditions are issued for non-rechargeable lithium battery installations on The Boeing Company (Boeing) Model 747–8 series airplanes. Non-rechargeable lithium batteries are a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on The Boeing Company on May 16, 2017. We must receive your comments by June 30, 2017.

ADDRESSES: Send comments identified by docket number FAA–2017–0385 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Nazih Khaouly, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98057–3356; telephone 425–227–2432; facsimile 425–227–1149.

SUPPLEMENTARY INFORMATION:

Future Requests for Installation of Non-Rechargeable Lithium Batteries

The FAA anticipates that non-rechargeable lithium batteries will be installed in most makes and models of transport category airplanes. We intend to require special conditions for certification projects involving non-rechargeable lithium battery installations to address certain safety issues until we can revise the airworthiness requirements. Applying special conditions to these installations across the range of transport category airplanes will ensure regulatory consistency.

Typically, the FAA issues special conditions after receiving an application for type certificate approval of a novel or unusual design feature. However, the FAA has found that the presence of non-rechargeable lithium batteries in certification projects is not always immediately identifiable, since the battery itself may not be the focus of the project. Meanwhile, the inclusion of these batteries has become virtually ubiquitous on in-production transport category airplanes, which shows that there will be a need for these special conditions. Also, delaying the issuance of special conditions until after each design application is received could lead to costly certification delays. Therefore the FAA finds it necessary to issue special conditions applicable to these battery installations on particular makes and models of aircraft.

On April 22, 2016, the FAA published special conditions no. 25–612–SC in the **Federal Register** (81 FR 23573) applicable to Gulfstream Aerospace Corporation for the GVI airplane. Those were the first special conditions the FAA issued for non-rechargeable lithium battery installations. We explained in that document our decision to make those special conditions effective one year after publication in the **Federal Register**, which is April 22, 2017. In those special conditions, the FAA stated its intention to apply non-rechargeable lithium battery special conditions to design changes on other makes and models applied for after this same date.

Section 1205 of the FAA Reauthorization Act of 1996 requires the FAA to consider the extent to which Alaska is not served by transportation modes other than aviation and to establish appropriate regulatory distinctions when modifying airworthiness regulations that affect intrastate aviation in Alaska. In consideration of this requirement and the overall impact on safety, the FAA does not intend to require non-rechargeable lithium battery special conditions for design changes that only replace a 121.5 megahertz (MHz) emergency locator transmitter (ELT) with a 406 MHz ELT that meets Technical Standard Order C126b, or later revision, on transport airplanes operating only in Alaska. This will support our efforts of encouraging operators in Alaska to upgrade to a 406 MHz ELT. These ELTs provide significantly improved accuracy for lifesaving services to locate an accident

site in Alaskan terrain. The FAA considers that the safety benefits from upgrading to a 406 MHz ELT for Alaskan operations will outweigh the battery fire risk.

Comments Invited

The substance of these special conditions has been subjected to the notice and comment period in prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon publication in the **Federal Register**. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

Boeing holds type certificate no. A20WE, which provides the certification basis for the 747–8 series airplanes. The 747–8 airplane is a four engine, transport category airplane with a passenger seating capacity of 605 and a maximum takeoff weight of 970,000 pounds.

The FAA is issuing these special conditions for non-rechargeable lithium battery installations on the 747–8 series airplanes. The current battery requirements in title 14, Code of Federal Regulations (14 CFR) part 25 are inadequate for addressing an airplane with non-rechargeable lithium batteries.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Boeing must show that the 747–8 series airplanes meet the applicable provisions of the regulations listed in type certificate no. A20WE or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA. In addition, the certification basis includes certain special conditions, exemptions, or later amended sections that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the 747–8 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the airplane model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the 747–8 series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Feature

The novel or unusual design feature is the installation of non-rechargeable lithium batteries.

For the purpose of these special conditions, we refer to a battery and battery system as a battery. A battery system consists of the battery and any protective, monitoring, and alerting circuitry or hardware inside or outside of the battery. It also includes vents (where necessary) and packaging.

Discussion

The FAA derived the current regulations governing installation of batteries in transport category airplanes from Civil Air Regulations (CAR) 4b.625(d) as part of the recodification of CAR 4b that established 14 CFR part 25 in February 1965. This recodification basically reworded the CAR 4b battery requirements, which are currently in § 25.1353(b)(1) through (4). Non-rechargeable lithium batteries are novel and unusual with respect to the state of technology considered when these requirements were codified. These batteries introduce higher energy levels into airplane systems through new chemical compositions in various battery cell sizes and construction. Interconnection of these cells in battery packs introduces failure modes that require unique design considerations, such as provisions for thermal management.

Recent events involving rechargeable and non-rechargeable lithium batteries prompted the FAA to initiate a broad evaluation of these energy storage technologies. In January 2013, two independent events involving rechargeable lithium-ion batteries revealed unanticipated failure modes. A National Transportation Safety Board (NTSB) letter to the FAA, dated May 22, 2014, which is available at *http://www.ntsb.gov,* filename A–14–032–036.pdf, describes these events.

On July 12, 2013, an event involving a non-rechargeable lithium battery in an emergency locator transmitter installation demonstrated unanticipated failure modes. The United Kingdom's Air Accidents Investigation Branch Bulletin S5/2013 describes this event.

Some known uses of rechargeable and non-rechargeable lithium batteries on airplanes include:

- Flight deck and avionics systems such as displays, global positioning systems, cockpit voice recorders, flight data recorders, underwater locator beacons, navigation computers, integrated avionics computers, satellite network and communication systems, communication management units, and remote-monitor electronic line-replaceable units;
- Cabin safety, entertainment, and communications equipment, including emergency locator transmitters, life rafts, escape slides, seatbelt air bags, cabin management systems, Ethernet switches, routers and media servers, wireless systems, internet and in-flight entertainment systems, satellite televisions, remotes, and handsets;
- Systems in cargo areas including door controls, sensors, video surveillance equipment, and security systems.

Some known potential hazards and failure modes associated with non-rechargeable lithium batteries are:

- *Internal failures:* In general, these batteries are significantly more susceptible to internal failures that can result in self-sustaining increases in temperature and pressure (*i.e.,* thermal runaway) than their nickel-cadmium or lead-acid counterparts. The metallic lithium can ignite, resulting in a self-sustaining fire or explosion.
- *Fast or imbalanced discharging:* Fast discharging or an imbalanced discharge of one cell of a multi-cell battery may create an overheating condition that results in an uncontrollable venting condition, which

in turn leads to a thermal event or an explosion.

• *Flammability:* Unlike nickel-cadmium and lead-acid batteries, lithium batteries use higher energy and current in an electrochemical system that can be configured to maximize energy storage of lithium. They also use liquid electrolytes that can be extremely flammable. The electrolyte, as well as the electrodes, can serve as a source of fuel for an external fire if the battery casing is breached.

Special condition no. 1 of these special conditions requires that each individual cell within a non-rechargeable lithium battery be designed to maintain safe temperatures and pressures. Special condition no. 2 addresses these same issues but for the entire battery. Special condition no. 2 requires the battery be designed to prevent propagation of a thermal event, such as self-sustained, uncontrollable increases in temperature or pressure from one cell to adjacent cells.

Special conditions nos. 1 and 2 are intended to ensure that the non-rechargeable lithium battery and its cells are designed to eliminate the potential for uncontrollable failures. However, a certain number of failures will occur due to various factors beyond the control of the battery designer. Therefore, other special conditions are intended to protect the airplane and its occupants if failure occurs.

Special conditions 3, 7, and 8 are self-explanatory.

Special condition no. 4 makes it clear that the flammable fluid fire protection requirements of § 25.863 apply to non-rechargeable lithium battery installations. Section 25.863 is applicable to areas of the airplane that could be exposed to flammable fluid leakage from airplane systems. Non-rechargeable lithium batteries contain an electrolyte that is a flammable fluid.

Special condition no. 5 requires that each non-rechargeable lithium battery installation not damage surrounding structure or adjacent systems, equipment, or electrical wiring from corrosive fluids or gases that may escape in such a way as to cause a major or more severe failure condition.

While special condition no. 5 addresses corrosive fluids and gases, special condition no. 6 addresses heat. Special condition no. 6 requires that each non-rechargeable lithium battery installation have provisions to prevent any hazardous effect on airplane structure or systems caused by the maximum amount of heat the battery installation can generate due to any failure of it or its individual cells. The means of meeting special conditions nos. 5 and 6 may be the same, but the requirements are independent and address different hazards.

These special conditions apply to all non-rechargeable lithium battery installations in lieu of § 25.1353(b)(1) through (4) at Amendment 25–123 or § 25.1353(c)(1) through (4) at earlier amendments. Those regulations remain in effect for other battery installations.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

These special conditions are applicable to the 747–8 series airplanes. Should Boeing apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

These special conditions are only applicable to design changes applied for after the effective date.

These special conditions are not applicable to changes to previously certified non-rechargeable lithium battery installations where the only change is either cosmetic or to relocate the installation to improve the safety of the airplane and occupants. Previously certified non-rechargeable lithium battery installations, as used in this paragraph, are those installations approved for certification projects applied for on or before the effective date of these special conditions. A cosmetic change is a change in appearance only, and does not change any function or safety characteristic of the battery installation. These special conditions are also not applicable to unchanged, previously certified non-rechargeable lithium battery installations that are affected by a change in a manner that improves the safety of its installation. The FAA determined that these exclusions are in the public interest because the need to meet all of the special conditions might otherwise deter these design changes that improve safety.

Conclusion

This action affects only a certain novel or unusual design feature on one model of airplane. It is not a rule of general applicability.

The substance of these special conditions has been subjected to the notice and comment period in prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon publication in the **Federal Register**. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and record keeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Boeing Model 747–8 series airplanes.

Non-Rechargeable Lithium Battery Installations

In lieu of § 25.1353(b)(1) through (4) at Amendment 25–123 or § 25.1353(c)(1) through (4) at earlier amendments, each non-rechargeable lithium battery installation must:

1. Be designed to maintain safe cell temperatures and pressures under all foreseeable operating conditions to prevent fire and explosion.

2. Be designed to prevent the occurrence of self-sustaining, uncontrollable increases in temperature or pressure.

3. Not emit explosive or toxic gases, either in normal operation or as a result of its failure, that may accumulate in hazardous quantities within the airplane.

4. Meet the requirements of § 25.863.

5. Not damage surrounding structure or adjacent systems, equipment, or electrical wiring from corrosive fluids or gases that may escape in such a way as to cause a major or more severe failure condition.

6. Have provisions to prevent any hazardous effect on airplane structure or systems caused by the maximum amount of heat it can generate due to any failure of it or its individual cells.

7. Have a failure sensing and warning system to alert the flightcrew if its failure affects safe operation of the airplane.

8. Have a means for the flightcrew or maintenance personnel to determine the battery charge state if the battery's

function is required for safe operation of the airplane.

Note: A battery system consists of the battery and any protective, monitoring, and alerting circuitry or hardware inside or outside of the battery. It also includes vents (where necessary) and packaging. For the purpose of these special conditions, a ''battery'' and ''battery system'' are referred to as a battery.

Issued in Renton, Washington, on May 9, 2017.

Michael Kaszycki,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–09843 Filed 5–15–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2017–0375; Special Conditions No. 25–674–SC]

Special Conditions: Textron Aviation Inc., Model 560XL Airplane; Non-Rechargeable Lithium Battery Installations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comment.

SUMMARY: These special conditions are issued for non-rechargeable lithium battery installations on the Textron Aviation Inc. (Textron) Model 560XL airplane. Non-rechargeable lithium batteries are a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Textron on May 16, 2017. We must receive your comments by June 30, 2017.

ADDRESSES: Send comments identified by docket number FAA–2017–0375 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Nazih Khaouly, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2432; facsimile 425–227–1149.

SUPPLEMENTARY INFORMATION:

Future Requests for Installation of Non-Rechargeable Lithium Batteries

The FAA anticipates that non-rechargeable lithium batteries will be installed in most makes and models of transport category airplanes. We intend to require special conditions for certification projects involving non-rechargeable lithium battery installations to address certain safety issues until we can revise the airworthiness requirements. Applying special conditions to these installations across the range of transport category airplanes will ensure regulatory consistency.

Typically, the FAA issues special conditions after receiving an application for type certificate approval of a novel or unusual design feature. However, the FAA has found that the presence of non-rechargeable lithium batteries in certification projects is not always immediately identifiable, since the battery itself may not be the focus of the project. Meanwhile, the inclusion of these batteries has become virtually ubiquitous on in-production transport category airplanes, which shows that there will be a need for these special conditions. Also, delaying the issuance of special conditions until after each design application is received could lead to costly certification delays. Therefore the FAA finds it necessary to issue special conditions applicable to these battery installations on particular makes and models of aircraft.

On April 22, 2016, the FAA published special conditions no. 25–612–SC in the **Federal Register** (81 FR 23573) applicable to Gulfstream Aerospace Corporation for the GVI airplane. Those were the first special conditions the FAA issued for non-rechargeable lithium battery installations. We explained in that document our decision to make those special conditions effective one year after publication in the **Federal Register**, which is April 22, 2017. In those special conditions, the FAA stated its intention to apply non-rechargeable lithium battery special conditions to design changes on other makes and models applied for after this same date.

Section 1205 of the FAA Reauthorization Act of 1996 requires the FAA to consider the extent to which Alaska is not served by transportation modes other than aviation and to establish appropriate regulatory distinctions when modifying airworthiness regulations that affect intrastate aviation in Alaska. In consideration of this requirement and the overall impact on safety, the FAA does not intend to require non-rechargeable lithium battery special conditions for design changes that only replace a 121.5 megahertz (MHz) emergency locator transmitter (ELT) with a 406 MHz ELT that meets Technical Standard Order C126b, or later revision, on transport airplanes operating only in Alaska. This will support our efforts of encouraging operators in Alaska to upgrade to a 406 MHz ELT. These ELTs provide significantly improved accuracy for lifesaving services to locate an accident site in Alaskan terrain. The FAA considers that the safety benefits from upgrading to a 406 MHz ELT for Alaskan operations will outweigh the battery fire risk.

Comments Invited

The substance of these special conditions has been subjected to the notice and comment period in prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon publication in the **Federal Register**. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

Textron holds type certificate no. A22CE, which provides the certification basis for the Model 560XL airplane. The Model 560XL is a twin-engine, transport category airplane with a passenger seating capacity of 12 and a maximum takeoff weight of 20,000 pounds.

The FAA is issuing these special conditions for non-rechargeable lithium battery installations on the Model 560XL airplane. The current battery requirements in title 14, Code of Federal Regulations (14 CFR) part 25 are inadequate for addressing an airplane with non-rechargeable lithium batteries.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Textron must show that the Model 560XL airplane meets the applicable provisions of the regulations listed in type certificate no. A22CE or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA. In addition, the certification basis includes certain special conditions, exemptions, or later amended sections that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model 560XL airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the airplane model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Model 560XL airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Feature

The novel or unusual design feature is the installation of non-rechargeable lithium batteries.

For the purpose of these special conditions, we refer to a battery and battery system as a battery. A battery system consists of the battery and any protective, monitoring, and alerting circuitry or hardware inside or outside of the battery. It also includes vents (where necessary) and packaging.

Discussion

The FAA derived the current regulations governing installation of batteries in transport category airplanes from Civil Air Regulations (CAR) 4b.625(d) as part of the recodification of CAR 4b that established 14 CFR part 25 in February 1965. This recodification basically reworded the CAR 4b battery requirements, which are currently in § 25.1353(b)(1) through (4). Non-rechargeable lithium batteries are novel and unusual with respect to the state of technology considered when these requirements were codified. These batteries introduce higher energy levels into airplane systems through new chemical compositions in various battery cell sizes and construction. Interconnection of these cells in battery packs introduces failure modes that require unique design considerations, such as provisions for thermal management.

Recent events involving rechargeable and non-rechargeable lithium batteries prompted the FAA to initiate a broad evaluation of these energy storage technologies. In January 2013, two independent events involving rechargeable lithium-ion batteries revealed unanticipated failure modes. A National Transportation Safety Board (NTSB) letter to the FAA, dated May 22, 2014, which is available at *http://www.ntsb.gov,* filename A–14–032–036.pdf, describes these events.

On July 12, 2013, an event involving a non-rechargeable lithium battery in an emergency locator transmitter installation demonstrated unanticipated failure modes. The United Kingdom's Air Accidents Investigation Branch Bulletin S5/2013 describes this event.

Some known uses of rechargeable and non-rechargeable lithium batteries on airplanes include:

- Flight deck and avionics systems such as displays, global positioning systems, cockpit voice recorders, flight data recorders, underwater locator beacons, navigation computers, integrated avionics computers, satellite network and communication systems, communication management units, and remote-monitor electronic line-replaceable units;
- Cabin safety, entertainment, and communications equipment, including emergency locator transmitters, life rafts, escape slides, seatbelt air bags, cabin management systems, Ethernet switches, routers and media servers, wireless systems, internet and in-flight entertainment systems, satellite televisions, remotes, and handsets;
- Systems in cargo areas including door controls, sensors, video surveillance equipment, and security systems.

Some known potential hazards and failure modes associated with non-rechargeable lithium batteries are:

- *Internal failures:* In general, these batteries are significantly more susceptible to internal failures that can result in self-sustaining increases in temperature and pressure (*i.e.,* thermal runaway) than their nickel-cadmium or lead-acid counterparts. The metallic lithium can ignite, resulting in a self-sustaining fire or explosion.
- *Fast or imbalanced discharging:* Fast discharging or an imbalanced discharge of one cell of a multi-cell battery may create an overheating condition that results in an uncontrollable venting condition, which in turn leads to a thermal event or an explosion.
- *Flammability:* Unlike nickel-cadmium and lead-acid batteries, lithium batteries use higher energy and

current in an electrochemical system that can be configured to maximize energy storage of lithium. They also use liquid electrolytes that can be extremely flammable. The electrolyte, as well as the electrodes, can serve as a source of fuel for an external fire if the battery casing is breached.

Special condition no. 1 of these special conditions requires that each individual cell within a non-rechargeable lithium battery be designed to maintain safe temperatures and pressures. Special condition no. 2 addresses these same issues but for the entire battery. Special condition no. 2 requires the battery be designed to prevent propagation of a thermal event, such as self-sustained, uncontrollable increases in temperature or pressure from one cell to adjacent cells.

Special conditions nos. 1 and 2 are intended to ensure that the non-rechargeable lithium battery and its cells are designed to eliminate the potential for uncontrollable failures. However, a certain number of failures will occur due to various factors beyond the control of the battery designer. Therefore, other special conditions are intended to protect the airplane and its occupants if failure occurs.

Special conditions 3, 7, and 8 are self-explanatory.

Special condition no. 4 makes it clear that the flammable fluid fire protection requirements of § 25.863 apply to non-rechargeable lithium battery installations. Section 25.863 is applicable to areas of the airplane that could be exposed to flammable fluid leakage from airplane systems. Non-rechargeable lithium batteries contain an electrolyte that is a flammable fluid.

Special condition no. 5 requires that each non-rechargeable lithium battery installation not damage surrounding structure or adjacent systems, equipment, or electrical wiring from corrosive fluids or gases that may escape in such a way as to cause a major or more severe failure condition.

While special condition no. 5 addresses corrosive fluids and gases, special condition no. 6 addresses heat. Special condition no. 6 requires that each non-rechargeable lithium battery installation have provisions to prevent any hazardous effect on airplane structure or systems caused by the maximum amount of heat the battery installation can generate due to any failure of it or its individual cells. The means of meeting special conditions nos. 5 and 6 may be the same, but the requirements are independent and address different hazards.

These special conditions apply to all non-rechargeable lithium battery installations in lieu of § 25.1353(b)(1) through (4) at Amendment 25–123 or § 25.1353(c)(1) through (4) at earlier amendments. Those regulations remain in effect for other battery installations.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

These special conditions are applicable to the Model 560XL airplane. Should Textron apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

These special conditions are only applicable to design changes applied for after the effective date.

These special conditions are not applicable to changes to previously certified non-rechargeable lithium battery installations where the only change is either cosmetic or to relocate the installation to improve the safety of the airplane and occupants. Previously certified non-rechargeable lithium battery installations, as used in this paragraph, are those installations approved for certification projects applied for on or before the effective date of these special conditions. A cosmetic change is a change in appearance only, and does not change any function or safety characteristic of the battery installation. These special conditions are also not applicable to unchanged, previously certified non-rechargeable lithium battery installations that are affected by a change in a manner that improves the safety of its installation. The FAA determined that these exclusions are in the public interest because the need to meet all of the special conditions might otherwise deter these design changes that improve safety.

Conclusion

This action affects only a certain novel or unusual design feature on one model of airplane. It is not a rule of general applicability.

The substance of these special conditions has been subject to the notice and comment period in prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon publication in the **Federal Register**. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and record keeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Textron Model 560XL airplane.

Non-Rechargeable Lithium Battery Installations

In lieu of § 25.1353(b)(1) through (4) at Amendment 25–123 or § 25.1353(c)(1) through (4) at earlier amendments, each non-rechargeable lithium battery installation must:

1. Be designed to maintain safe cell temperatures and pressures under all foreseeable operating conditions to prevent fire and explosion.

2. Be designed to prevent the occurrence of self-sustaining, uncontrollable increases in temperature or pressure.

3. Not emit explosive or toxic gases, either in normal operation or as a result of its failure, that may accumulate in hazardous quantities within the airplane.

4. Meet the requirements of § 25.863.

5. Not damage surrounding structure or adjacent systems, equipment, or electrical wiring from corrosive fluids or gases that may escape in such a way as to cause a major or more severe failure condition.

6. Have provisions to prevent any hazardous effect on airplane structure or systems caused by the maximum amount of heat it can generate due to any failure of it or its individual cells.

7. Have a failure sensing and warning system to alert the flightcrew if its failure affects safe operation of the airplane.

8. Have a means for the flightcrew or maintenance personnel to determine the battery charge state if the battery's function is required for safe operation of the airplane.

Note: A battery system consists of the battery and any protective, monitoring, and

alerting circuitry or hardware inside or outside of the battery. It also includes vents (where necessary) and packaging. For the purpose of these special conditions, a ''battery'' and ''battery system'' are referred to as a battery.

Issued in Renton, Washington, on May 9, 2017.

Michael Kaszycki,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–09842 Filed 5–15–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2017–0372; Special Conditions No. 25–673–SC]

Special Conditions: Embraer S. A., Model EMB–135BJ Airplane; Non-Rechargeable Lithium Battery Installations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comment.

SUMMARY: These special conditions are issued for non-rechargeable lithium battery installations on the Embraer S. A. (Embraer) Model EMB–135BJ airplane. Non-rechargeable lithium batteries are a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Embraer on May 16, 2017. We must receive your comments by June 30, 2017.

ADDRESSES: Send comments identified by docket number FAA–2017–0372 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC, 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Nazih Khaouly, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98057–3356; telephone 425–227–2432; facsimile 425–227–1149.

SUPPLEMENTARY INFORMATION:

Future Requests for Installation of Non-Rechargeable Lithium Batteries

The FAA anticipates that non-rechargeable lithium batteries will be installed in most makes and models of transport category airplanes. We intend to require special conditions for certification projects involving non-rechargeable lithium battery installations to address certain safety issues until we can revise the airworthiness requirements. Applying special conditions to these installations across the range of transport category airplanes will ensure regulatory consistency.

Typically, the FAA issues special conditions after receiving an application for type certificate approval of a novel or unusual design feature. However, the FAA has found that the presence of non-rechargeable lithium batteries in certification projects is not always immediately identifiable, since the battery itself may not be the focus of the project. Meanwhile, the inclusion of these batteries has become virtually ubiquitous on in-production transport category airplanes, which shows that there will be a need for these special conditions. Also, delaying the issuance of special conditions until after each design application is received could lead to costly certification delays. Therefore the FAA finds it necessary to issue special conditions applicable to these battery installations on particular makes and models of aircraft.

On April 22, 2016, the FAA published special conditions no. 25–612–SC in the **Federal Register** (81 FR 23573) applicable to Gulfstream Aerospace Corporation for the GVI airplane. Those were the first special conditions the FAA issued for non-rechargeable lithium battery installations. We explained in that document our decision to make those special conditions effective one year after publication in the **Federal Register**, which is April 22, 2017. In those special conditions, the FAA stated its intention to apply non-rechargeable lithium battery special conditions to design changes on other makes and models applied for after this same date.

Section 1205 of the FAA Reauthorization Act of 1996 requires the FAA to consider the extent to which Alaska is not served by transportation modes other than aviation and to establish appropriate regulatory distinctions when modifying airworthiness regulations that affect intrastate aviation in Alaska. In consideration of this requirement and the overall impact on safety, the FAA does not intend to require non-rechargeable lithium battery special conditions for design changes that only replace a 121.5 megahertz (MHz) emergency locator transmitter (ELT) with a 406 MHz ELT that meets Technical Standard Order C126b, or later revision, on transport airplanes operating only in Alaska. This will support our efforts of encouraging operators in Alaska to upgrade to a 406 MHz ELT. These ELTs provide significantly improved accuracy for lifesaving services to locate an accident site in Alaskan terrain. The FAA considers that the safety benefits from upgrading to a 406 MHz ELT for Alaskan operations will outweigh the battery fire risk.

Comments Invited

The substance of these special conditions has been subjected to the notice and comment period in prior

instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon publication in the **Federal Register**. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

Embraer holds type certificate no. T00011AT, which provides the certification basis for the EMB–135BJ airplane. The EMB–135BJ is a twin engine, transport category airplane with a passenger seating capacity of 19 and a maximum takeoff weight of 48,943 to 53,572 pounds, depending on the specific design.

The FAA is issuing these special conditions for non-rechargeable lithium battery installations on the EMB–135BJ airplane. The current battery requirements in title 14, Code of Federal Regulations (14 CFR) part 25 are inadequate for addressing an airplane with non-rechargeable lithium batteries.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Embraer must show that the EMB–135BJ airplane meets the applicable provisions of the regulations listed in type certificate no. T00011AT or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA. In addition, the certification basis includes certain special conditions, exemptions, or later amended sections that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the EMB–135BJ airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the airplane model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the EMB–135BJ must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Feature

The novel or unusual design feature is the installation of non-rechargeable lithium batteries.

For the purpose of these special conditions, we refer to a battery and battery system as a battery. A battery system consists of the battery and any protective, monitoring, and alerting circuitry or hardware inside or outside of the battery. It also includes vents (where necessary) and packaging.

Discussion

The FAA derived the current regulations governing installation of batteries in transport category airplanes from Civil Air Regulations (CAR) 4b.625(d) as part of the recodification of CAR 4b that established 14 CFR part 25 in February 1965. This recodification basically reworded the CAR 4b battery requirements, which are currently in § 25.1353(b)(1) through (4). Non-rechargeable lithium batteries are novel and unusual with respect to the state of technology considered when these requirements were codified. These batteries introduce higher energy levels into airplane systems through new chemical compositions in various battery cell sizes and construction. Interconnection of these cells in battery packs introduces failure modes that require unique design considerations, such as provisions for thermal management.

Recent events involving rechargeable and non-rechargeable lithium batteries prompted the FAA to initiate a broad evaluation of these energy storage technologies. In January 2013, two independent events involving rechargeable lithium-ion batteries revealed unanticipated failure modes. A National Transportation Safety Board (NTSB) letter to the FAA, dated May 22, 2014, which is available at *http://www.ntsb.gov,* filename A–14–032–036.pdf, describes these events.

On July 12, 2013, an event involving a non-rechargeable lithium battery in an emergency locator transmitter installation demonstrated unanticipated failure modes. The United Kingdom's Air Accidents Investigation Branch Bulletin S5/2013 describes this event.

Some known uses of rechargeable and non-rechargeable lithium batteries on airplanes include:

- Flight deck and avionics systems such as displays, global positioning systems, cockpit voice recorders, flight data recorders, underwater locator beacons, navigation computers, integrated avionics computers, satellite network and communication systems, communication management units, and remote-monitor electronic line-replaceable units;
- Cabin safety, entertainment, and communications equipment, including emergency locator transmitters, life rafts, escape slides, seatbelt air bags, cabin management systems, Ethernet switches, routers and media servers, wireless systems, internet and in-flight entertainment systems, satellite televisions, remotes, and handsets;
- Systems in cargo areas including door controls, sensors, video surveillance equipment, and security systems.

Some known potential hazards and failure modes associated with non-rechargeable lithium batteries are:

- *Internal failures:* In general, these batteries are significantly more susceptible to internal failures that can result in self-sustaining increases in temperature and pressure (*i.e.,* thermal runaway) than their nickel-cadmium or lead-acid counterparts. The metallic lithium can ignite, resulting in a self-sustaining fire or explosion.
- *Fast or imbalanced discharging:* Fast discharging or an imbalanced discharge of one cell of a multi-cell battery may create an overheating condition that results in an uncontrollable venting condition, which in turn leads to a thermal event or an explosion.
- *Flammability:* Unlike nickel-cadmium and lead-acid batteries, lithium batteries use higher energy and current in an electrochemical system that can be configured to maximize energy storage of lithium. They also use liquid electrolytes that can be extremely

flammable. The electrolyte, as well as the electrodes, can serve as a source of fuel for an external fire if the battery casing is breached.

Special condition no. 1 of these special conditions requires that each individual cell within a non-rechargeable lithium battery be designed to maintain safe temperatures and pressures. Special condition no. 2 addresses these same issues but for the entire battery. Special condition no. 2 requires the battery be designed to prevent propagation of a thermal event, such as self-sustained, uncontrollable increases in temperature or pressure from one cell to adjacent cells.

Special conditions nos. 1 and 2 are intended to ensure that the non-rechargeable lithium battery and its cells are designed to eliminate the potential for uncontrollable failures. However, a certain number of failures will occur due to various factors beyond the control of the battery designer. Therefore, other special conditions are intended to protect the airplane and its occupants if failure occurs.

Special conditions 3, 7, and 8 are self-explanatory.

Special condition no. 4 makes it clear that the flammable fluid fire protection requirements of § 25.863 apply to non-rechargeable lithium battery installations. Section 25.863 is applicable to areas of the airplane that could be exposed to flammable fluid leakage from airplane systems. Non-rechargeable lithium batteries contain an electrolyte that is a flammable fluid.

Special condition no. 5 requires that each non-rechargeable lithium battery installation not damage surrounding structure or adjacent systems, equipment, or electrical wiring from corrosive fluids or gases that may escape in such a way as to cause a major or more severe failure condition.

While special condition no. 5 addresses corrosive fluids and gases, special condition no. 6 addresses heat. Special condition no. 6 requires that each non-rechargeable lithium battery installation have provisions to prevent any hazardous effect on airplane structure or systems caused by the maximum amount of heat the battery installation can generate due to any failure of it or its individual cells. The means of meeting special conditions nos. 5 and 6 may be the same, but the requirements are independent and address different hazards.

These special conditions apply to all non-rechargeable lithium battery installations in lieu of § 25.1353(b)(1) through (4) at Amendment 25–123 or § 25.1353(c)(1) through (4) at earlier amendments. Those regulations remain in effect for other battery installations.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

These special conditions are applicable to the EMB–135BJ airplane. Should Embraer apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

These special conditions are only applicable to design changes applied for after the effective date.

These special conditions are not applicable to changes to previously certified non-rechargeable lithium battery installations where the only change is either cosmetic or to relocate the installation to improve the safety of the airplane and occupants. Previously certified non-rechargeable lithium battery installations, as used in this paragraph, are those installations approved for certification projects applied for on or before the effective date of these special conditions. A cosmetic change is a change in appearance only, and does not change any function or safety characteristic of the battery installation. These special conditions are also not applicable to unchanged, previously certified non-rechargeable lithium battery installations that are affected by a change in a manner that improves the safety of its installation. The FAA determined that these exclusions are in the public interest because the need to meet all of the special conditions might otherwise deter these design changes that improve safety.

Conclusion

This action affects only a certain novel or unusual design feature on one model of airplane. It is not a rule of general applicability.

The substance of these special conditions has been subjected to the notice and comment period in prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon publication in the **Federal Register**. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and record keeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Embraer S.A. Model EMB–135BJ airplane.

Non-Rechargeable Lithium Battery Installations

In lieu of § 25.1353(b)(1) through (4) at Amendment 25–123 or § 25.1353(c)(1) through (4) at earlier amendments, each non-rechargeable lithium battery installation must:

1. Be designed to maintain safe cell temperatures and pressures under all foreseeable operating conditions to prevent fire and explosion.

2. Be designed to prevent the occurrence of self-sustaining, uncontrollable increases in temperature or pressure.

3. Not emit explosive or toxic gases, either in normal operation or as a result of its failure, that may accumulate in hazardous quantities within the airplane.

4. Meet the requirements of § 25.863.

5. Not damage surrounding structure or adjacent systems, equipment, or electrical wiring from corrosive fluids or gases that may escape in such a way as to cause a major or more severe failure condition.

6. Have provisions to prevent any hazardous effect on airplane structure or systems caused by the maximum amount of heat it can generate due to any failure of it or its individual cells.

7. Have a failure sensing and warning system to alert the flightcrew if its failure affects safe operation of the airplane.

8. Have a means for the flightcrew or maintenance personnel to determine the battery charge state if the battery's function is required for safe operation of the airplane.

Note: A battery system consists of the battery and any protective, monitoring, and alerting circuitry or hardware inside or outside of the battery. It also includes vents (where necessary) and packaging. For the purpose of these special conditions, a

''battery'' and ''battery system'' are referred to as a battery.

Issued in Renton, Washington, on May 9, 2017.

Michael Kaszycki,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–09841 Filed 5–15–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2014–0564; Special Conditions No. 25–573–SC]

Special Conditions: Dassault Aviation Model Falcon 900EX Airplane; Electronic System-Security Protection From Unauthorized External Access

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions, request for comment; withdrawal.

SUMMARY: The FAA is withdrawing a previously published special conditions for the Dassault Aviation (Dassault) Model Falcon 900EX airplane. We are withdrawing the special conditions in response to Dassault's comments, submitted to the Federal Docket on December 5, 2014.

DATES: This withdrawal of special conditions is effective on Dassault on April 7, 2017.

FOR FURTHER INFORMATION CONTACT: Varun Khanna, FAA, Airplane and Flightcrew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1298; facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Background

On November 14, 2014, the **Federal Register** published a Final Special Conditions, Request for Comment, Docket No. FAA–2014–0564, Special Conditions No. 25–573–SC (79 FR 68107), for the Dassault Model Falcon 900EX airplane on the subject of electronic system-security protection from unauthorized external access.

Note that the original publication of the special conditions incorrectly indicates, in the document header, Special Conditions No. 25–XXX–SC. This withdrawal document reflects the correct special conditions number.

Reason for Withdrawal

The FAA withdraws Special Conditions No. 25–573–SC after considering comments Dassault submitted during the public-comment period. Dassault's comment, in pertinent part, is as follows, with minor edits for clarity:

The Proposed Special Conditions indicate that they are applicable to the ''new Model 900EX airplane.'' This statement is factually wrong. Dassault believes that these special conditions were intended for a Dassault Aviation Services (DAS) supplemental type certificate (STC) regarding the replacement of the display unit on the Dassault Model 900EX airplane (FAA project number ST07490NY–T). Furthermore, previous discussions between the FAA and DAS led to the conclusion that the STC for the replacement of the display unit on the Dassault Model 900EX airplane (FAA project number ST07490NY–T) did not contain any changes involving the connectivity to the avionics system. Accordingly, there is no specific vulnerability to the systems due to the replacement of the display unit. Therefore, there was no novelty in the STC that would require the issuance of the proposed special conditions. The STC was approved in [2014] (ST03371NY) without any special conditions on this subject.

In view of the foregoing, Dassault Aviation respectfully requests that the FAA rescind [Special Conditions No. 25–573–SC].

The FAA agrees with Dassault's comments and withdraws the special conditions. These special conditions are not included in, and are not a part of, the type certificate for the Dassault Model Falcon 900EX airplane.

Conclusion

This action affects only the special conditions indicated above for the Dassault Model Falcon 900EX airplane.

In light of Dassault's comments, the FAA agrees that these special conditions are not necessary, and that withdrawal of the special conditions is not detrimental to the operation of the airplane. Accordingly, pursuant to the authority delegated to me by the Administrator, Special Conditions No. 25–573–SC is withdrawn.

The FAA finds that good cause exists to make this withdrawal of special conditions effective upon issuance.

Issued in Renton, Washington, on April 7, 2017.

Michael Kaszycki,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–09839 Filed 5–15–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2017–0368; Special Conditions No. 25–671–SC]

Special Conditions: Airbus, Models A318, A319, A320, and A321 Series Airplanes; Non-Rechargeable Lithium Battery Installations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comment.

SUMMARY: These special conditions are issued for non-rechargeable lithium battery installations on Airbus Models A318, A319, A320, and A321 series airplanes. Non-rechargeable lithium batteries are a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Airbus on May 16, 2017. We must receive your comments by June 30, 2017.

ADDRESSES: Send comments identified by docket number FAA–2017–0368 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC, 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA

docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Nazih Khaouly, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2432; facsimile 425–227–1149.

SUPPLEMENTARY INFORMATION:

Future Requests for Installation of Non-Rechargeable Lithium Batteries

The FAA anticipates that non-rechargeable lithium batteries will be installed in most makes and models of transport category airplanes. We intend to require special conditions for certification projects involving non-rechargeable lithium battery installations to address certain safety issues until we can revise the airworthiness requirements. Applying special conditions to these installations across the range of transport category airplanes will ensure regulatory consistency.

Typically, the FAA issues special conditions after receiving an application for type certificate approval of a novel or unusual design feature. However, the FAA has found that the presence of non-rechargeable lithium batteries in certification projects is not always immediately identifiable, since the battery itself may not be the focus of the project. Meanwhile, the inclusion of these batteries has become virtually ubiquitous on in-production transport category airplanes, which shows that there will be a need for these special conditions. Also, delaying the issuance of special conditions until after each design application is received could lead to costly certification delays. Therefore the FAA finds it necessary to issue special conditions applicable to these battery installations on particular makes and models of aircraft.

On April 22, 2016, the FAA published special conditions no. 25–612–SC in the **Federal Register** (81 FR 23573) applicable to Gulfstream Aerospace Corporation for the GVI airplane. Those were the first special conditions the FAA issued for non-rechargeable lithium battery installations. We explained in that document our decision to make those special conditions effective one year after publication in the **Federal Register**, which is April 22, 2017. In those special conditions, the FAA stated its intention to apply non-rechargeable lithium battery special conditions to design changes on other makes and models applied for after this same date.

Section 1205 of the FAA Reauthorization Act of 1996 requires the FAA to consider the extent to which Alaska is not served by transportation modes other than aviation and to establish appropriate regulatory distinctions when modifying airworthiness regulations that affect intrastate aviation in Alaska. In consideration of this requirement and the overall impact on safety, the FAA does not intend to require non-rechargeable lithium battery special conditions for design changes that only replace a 121.5 megahertz (MHz) emergency locator transmitter (ELT) with a 406 MHz ELT that meets Technical Standard Order C126b, or later revision, on transport airplanes operating only in Alaska. This will support our efforts of encouraging operators in Alaska to upgrade to a 406 MHz ELT. These ELTs provide significantly improved accuracy for lifesaving services to locate an accident site in Alaskan terrain. The FAA considers that the safety benefits from upgrading to a 406 MHz ELT for Alaskan operations will outweigh the battery fire risk.

Comments Invited

The substance of these special conditions has been subjected to the notice and comment period in prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon publication in the **Federal Register**. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

Airbus holds type certificate no. A28NM, which provides the certification basis for the A318, A319, A320, and A321 series airplanes. The A318, A319, A320, and A321 series airplanes are twin engine, transport category airplanes with a passenger seating capacity of 136 to 220 and a maximum takeoff weight of 123,458 to 206,132 pounds, depending on the specific design.

The FAA is issuing these special conditions for non-rechargeable lithium battery installations on A318, A319, A320, and A321 series airplanes. The current battery requirements in title 14, Code of Federal Regulations (14 CFR) part 25 are inadequate for addressing an airplane with non-rechargeable lithium batteries.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Airbus must show that the A318, A319, A320, and A321 series airplanes meet the applicable provisions of the regulations listed in type certificate no. A28NM or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA. In addition, the certification basis includes certain special conditions, exemptions, or later amended sections that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the A318, A319, A320, and A321 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the airplane model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions

would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the A318, A319, A320, and A321 series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Feature

The novel or unusual design feature is the installation of non-rechargeable lithium batteries.

For the purpose of these special conditions, we refer to a battery and battery system as a battery. A battery system consists of the battery and any protective, monitoring, and alerting circuitry or hardware inside or outside of the battery. It also includes vents (where necessary) and packaging.

Discussion

The FAA derived the current regulations governing installation of batteries in transport category airplanes from Civil Air Regulations (CAR) 4b.625(d) as part of the recodification of CAR 4b that established 14 CFR part 25 in February 1965. This recodification basically reworded the CAR 4b battery requirements, which are currently in § 25.1353(b)(1) through (4). Non-rechargeable lithium batteries are novel and unusual with respect to the state of technology considered when these requirements were codified. These batteries introduce higher energy levels into airplane systems through new chemical compositions in various battery cell sizes and construction. Interconnection of these cells in battery packs introduces failure modes that require unique design considerations, such as provisions for thermal management.

Recent events involving rechargeable and non-rechargeable lithium batteries prompted the FAA to initiate a broad evaluation of these energy storage technologies. In January 2013, two independent events involving rechargeable lithium-ion batteries revealed unanticipated failure modes. A National Transportation Safety Board (NTSB) letter to the FAA, dated May 22, 2014, which is available at *http://www.ntsb.gov,* filename A–14–032–036.pdf, describes these events.

On July 12, 2013, an event involving a non-rechargeable lithium battery in an emergency locator transmitter installation demonstrated unanticipated failure modes. The United Kingdom's Air Accidents Investigation Branch Bulletin S5/2013 describes this event.

Some known uses of rechargeable and non-rechargeable lithium batteries on airplanes include:

- Flight deck and avionics systems such as displays, global positioning systems, cockpit voice recorders, flight data recorders, underwater locator beacons, navigation computers, integrated avionics computers, satellite network and communication systems, communication management units, and remote-monitor electronic line-replaceable units;
- Cabin safety, entertainment, and communications equipment, including emergency locator transmitters, life rafts, escape slides, seatbelt air bags, cabin management systems, Ethernet switches, routers and media servers, wireless systems, internet and in-flight entertainment systems, satellite televisions, remotes, and handsets;
- Systems in cargo areas including door controls, sensors, video surveillance equipment, and security systems.

Some known potential hazards and failure modes associated with non-rechargeable lithium batteries are:

- *Internal failures:* In general, these batteries are significantly more susceptible to internal failures that can result in self-sustaining increases in temperature and pressure (*i.e.,* thermal runaway) than their nickel-cadmium or lead-acid counterparts. The metallic lithium can ignite, resulting in a self-sustaining fire or explosion.
- *Fast or imbalanced discharging:* Fast discharging or an imbalanced discharge of one cell of a multi-cell battery may create an overheating condition that results in an uncontrollable venting condition, which in turn leads to a thermal event or an explosion.
- *Flammability:* Unlike nickel-cadmium and lead-acid batteries, lithium batteries use higher energy and current in an electrochemical system that can be configured to maximize energy storage of lithium. They also use liquid electrolytes that can be extremely flammable. The electrolyte, as well as the electrodes, can serve as a source of fuel for an external fire if the battery casing is breached.

Special condition no. 1 of these special conditions requires that each individual cell within a non-rechargeable lithium battery be designed to maintain safe temperatures and pressures. Special condition no. 2 addresses these same issues but for the entire battery. Special condition no. 2 requires the battery be designed to prevent propagation of a thermal event, such as self-sustained, uncontrollable increases in temperature or pressure from one cell to adjacent cells.

Special conditions nos. 1 and 2 are intended to ensure that the non-rechargeable lithium battery and its cells are designed to eliminate the potential for uncontrollable failures. However, a certain number of failures will occur due to various factors beyond the control of the battery designer. Therefore, other special conditions are intended to protect the airplane and its occupants if failure occurs.

Special conditions 3, 7, and 8 are self-explanatory.

Special condition no. 4 makes it clear that the flammable fluid fire protection requirements of § 25.863 apply to non-rechargeable lithium battery installations. Section 25.863 is applicable to areas of the airplane that could be exposed to flammable fluid leakage from airplane systems. Non-rechargeable lithium batteries contain an electrolyte that is a flammable fluid.

Special condition no. 5 requires that each non-rechargeable lithium battery installation not damage surrounding structure or adjacent systems, equipment, or electrical wiring from corrosive fluids or gases that may escape in such a way as to cause a major or more severe failure condition.

While special condition no. 5 addresses corrosive fluids and gases, special condition no. 6 addresses heat. Special condition no. 6 requires that each non-rechargeable lithium battery installation have provisions to prevent any hazardous effect on airplane structure or systems caused by the maximum amount of heat the battery installation can generate due to any failure of it or its individual cells. The means of meeting special conditions nos. 5 and 6 may be the same, but the requirements are independent and address different hazards.

These special conditions apply to all non-rechargeable lithium battery installations in lieu of § 25.1353(b)(1) through (4) at Amendment 25–123 or § 25.1353(c)(1) through (4) at earlier amendments. Those regulations remain in effect for other battery installations.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

These special conditions are applicable to A318, A319, A320, and A321 series airplanes. Should Airbus

apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

These special conditions are only applicable to design changes applied for after the effective date.

These special conditions are not applicable to changes to previously certified non-rechargeable lithium battery installations where the only change is either cosmetic or to relocate the installation to improve the safety of the airplane and occupants. Previously certified non-rechargeable lithium battery installations, as used in this paragraph, are those installations approved for certification projects applied for on or before the effective date of these special conditions. A cosmetic change is a change in appearance only, and does not change any function or safety characteristic of the battery installation. These special conditions are also not applicable to unchanged, previously certified non-rechargeable lithium battery installations that are affected by a change in a manner that improves the safety of its installation. The FAA determined that these exclusions are in the public interest because the need to meet all of the special conditions might otherwise deter these design changes that improve safety.

Conclusion

This action affects only a certain novel or unusual design feature on the subject models of airplanes. It is not a rule of general applicability.

The substance of these special conditions has been subjected to the notice and comment period in prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon publication in the **Federal Register**. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and record keeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Airbus Models A318, A319, A320, and A321 series airplanes.

Non-Rechargeable Lithium Battery Installations

In lieu of § 25.1353(b)(1) through (4) at Amendment 25–123 or § 25.1353(c)(1) through (4) at earlier amendments, each non-rechargeable lithium battery installation must:

1. Be designed to maintain safe cell temperatures and pressures under all foreseeable operating conditions to prevent fire and explosion.

2. Be designed to prevent the occurrence of self-sustaining, uncontrollable increases in temperature or pressure.

3. Not emit explosive or toxic gases, either in normal operation or as a result of its failure, that may accumulate in hazardous quantities within the airplane.

4. Meet the requirements of § 25.863.

5. Not damage surrounding structure or adjacent systems, equipment, or electrical wiring from corrosive fluids or gases that may escape in such a way as to cause a major or more severe failure condition.

6. Have provisions to prevent any hazardous effect on airplane structure or systems caused by the maximum amount of heat it can generate due to any failure of it or its individual cells.

7. Have a failure sensing and warning system to alert the flightcrew if its failure affects safe operation of the airplane.

8. Have a means for the flightcrew or maintenance personnel to determine the battery charge state if the battery's function is required for safe operation of the airplane.

Note: A battery system consists of the battery and any protective, monitoring, and alerting circuitry or hardware inside or outside of the battery. It also includes vents (where necessary) and packaging. For the purpose of these special conditions, a ''battery'' and ''battery system'' are referred to as a battery.

Issued in Renton, Washington, on May 9, 2017.

Michael Kaszycki,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–09844 Filed 5–15–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2017–0167]

RIN 1625–AA08

Special Local Regulation, Stuart, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation on the Indian River located northeast of Ernest F. Lyons Bridge and south of Joes Cove, in Stuart, Florida during the Stuart Sailfish Regatta, a series of high-speed boat races. This special local regulation is necessary for the safety of race participants, participant vessels, spectators, and the general public during the event. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the regulated area while high-speed boats are operating.

DATES: This rule will be effective from 9 a.m. on May 19 through 6 p.m. on May 21, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0167 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Mara Brown, Sector Miami Waterways Management Division, U.S. Coast Guard; telephone 305–535–4317, email *Mara.J.Brown@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good

cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because insufficient time remains to publish a NPRM and to receive public comments, as the Stuart Sailfish Regatta event will occur before the rulemaking process would be completed. For those reasons, it would be impracticable to publish a NPRM.

Under 5 U.S.C. 553(d)(3), for the reasons cited above, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under the authority in 33 U.S.C. 1233. The Captain of the Port Miami (COTP) has determined that potential hazards associated with the regatta will pose a risk to anyone in the established race and buffer zone. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the regulated area while high-speed boats are operating.

IV. Discussion of the Rule

From May 19 through May 21, 2017, Stuart Sailfish Regatta, Inc. is hosting the Stuart Sailfish Regatta, a series of high-speed boat races. The races will be held on the Indian River located northeast of Ernest F. Lyons Bridge and south of Joes Cove, in Stuart, Florida. Approximately 150 high-speed power boats are participating in the event. It is anticipated that at least 100 spectator vessels will be present during the event.

This rule establishes a special local regulation that encompasses certain navigable waters of the Indian River located northeast of Ernest F. Lyons Bridge and south of Joes Cove, in Stuart, Florida. The special local regulation consists of the following four areas: (1) A race area, where all persons and vessels, except those participating in the high-speed boat races, are prohibited from entering, transiting through, anchoring in, or remaining within; (2) a buffer zone around the race area, where all persons and vessels, except those persons and vessels enforcing the buffer zone or authorized participants or vessels transiting to the race area, are prohibited from entering, transiting through, anchoring in, or remaining within; (3) spectator area one, north of the race area where all persons are prohibited from entering the water or swimming in the designated area; and (4) spectator area two, west of the race area, where all persons are prohibited from entering the water or swimming in the designated area.

Persons and vessels may request authorization to enter the regulated area by contacting the Captain of the Port Miami by telephone at 305–535–4472, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

E.O.s 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).

This regulatory action determination is based on the size, location, duration, and time-of-year of the special local regulation. Non-participant persons and vessels may enter, transit through, anchor in, or remain within the regulated area during their respective enforcement periods if authorized by the Captain of the Port Miami or a designated representative. Non-participant persons and vessels not able to enter, transit through, anchor in, or remain within the regulated areas without authorization from the Captain of the Port Miami or a designated representative may operate in the surrounding areas during the respective enforcement periods. The Coast Guard will provide advance notification of the special local regulation to the local maritime community by Local Notice to Mariners, Broadcast Notice to Mariners and on-scene designated representative.

B. Impact on Small Entities

The Regulatory Flexibility Act of 19, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's

responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation issued in conjunction with a regatta or marine parade. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

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

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add § 100.35T07–0167 to read as follows:

§ 100.35T07–0167 Special Local Regulation; Stuart Sailfish Regatta, Indian River, Stuart, FL.

(a) *Location.* The following regulated areas are established as a special local regulation. All coordinates are North American Datum 1983.

(1) *Race area.* All waters of Indian River located northeast of Ernest Lyons Bridge and south of Joes Cove that are encompassed within the following points: Starting at Point 1 in position 27°12′47″ N., 080°11′10″ W.; thence south to Point 2 in position 27°12′42″ N., 080°11′08″ W.; thence southwest to Point 3 in position 27°12′37″ N., 080°11′12″ W.; thence southwest to Point 4 in position 27°12′34″ N., 080°11′18″ W.; thence southwest to Point 5 in position 27°12′32″ N., 080°11′23″ W.; thence west to Point 6 in position 27°12′32″ N., 080°11′27″ W.; thence northwest to Point 7 in position 27°12′34″ N., 080°11′31″ W.; thence northwest to Point 8 in position 27°12′39″ N., 080°11′33″ W.; thence northeast to Point 9 in position 27°12′43″ N., 080°11′31″ W.; thence northeast to Point 10 in position 27°12′47″ N., 080°11′26″ W.; thence northeast to Point 11 in position 27°12′49″ N., 080°11′21″ W.; thence east to Point 12 in position 27°12′50″ N., 080°11′16″ W.; thence southeast back to origin. All persons and vessels, except those persons and vessels participating in the high-speed boat races, are prohibited from entering, transiting through, anchoring in, or remaining within the race area.

(2) *Buffer zone.* All waters of Indian River located northeast of Ernest Lyons Bridge and south of Joes Cove that are encompassed within the following points: Starting at Point 1 in position 27°12′41″ N., 080°11′39″ W.; thence northeast to Point 2 in position 27°12′54″ N., 080°11′22″ W.; thence northwest to Point 3 in position 27°12′55″ N., 080°11′23″ W.; thence northeast to Point 4 in position 27°13′05″ N., 080°11′01″ W.; thence southwest to Point 5 in position 27°12′47″ N., 080°11′04″ W.; thence southeast to Point 6 in position 27°12′35″ N., 080°11′00″ W.; thence southwest to Point 7 in position 27°12′22″ N., 080°11′28″ W.; thence northwest back to origin. All persons and vessels, except those persons and vessels enforcing the buffer zone or authorized participants or vessels transiting to the race area, are prohibited from entering, transiting through, anchoring in, or remaining within the buffer zone.

(3) *Spectator area one.* All waters of Indian River located northeast of Ernest Lyons Bridge and south of Joes Cove that are encompassed within the following points: Starting at Point 1 in position 27°12′48″ N., 080°11′42″ W.; thence northeast to Point 2 in position 27°12′59″ N., 080°11′26″ W.; thence southeast to Point 3 in position 27°12′54″ N., 080°11′22″ W.; thence southwest to Point 4 in position 27°12′43″ N., 080°11′38″ W.; thence northwest back to origin. All persons are prohibited from entering the water or swimming in the spectator area.

(4) *Spectator area two.* All waters of Indian River located north of Ernest Lyons Bridge and west of the Intracoastal Waterway encompassed within the following points: Starting at Point 1 in position 27°12′54″ N., 080°11′56″ W.; thence northeast to Point 2 in position 27°12′56″ N., 080°11′51″ W.; thence southeast to Point 3 in position 27°12′25″ N., 080°11′33″ W.; thence southwest to Point 4 in position 27°12′23″ N., 080°11′37″ W.; thence

northwest back to origin. All persons are prohibited from entering the water or swimming in the spectator area.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Miami in the enforcement of the regulated area.

(c) *Regulations.* (1) Non-participant persons and vessels are prohibited from entering the race area and buffer zone. Non-participant persons and vessels may request authorization to enter, transit through, anchor in, or remain within the regulated area by contacting the Captain of the Port Miami by telephone at 305–535–4472, or a designated representative via VHF radio on channel 16. If authorization is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative.

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

(d) *Enforcement period.* This rule will be daily from 9 a.m. to 6 p.m. on May 19 through May 21, 2017.

Dated: May 3, 2017.

M.M. Dean,

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

[FR Doc. 2017–09883 Filed 5–15–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0121]

RIN 1625–AA00

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

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

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

DATES: This rule is effective from May 18, 2017 through May 21, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* type USCG–2017–0121 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander John Downing, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843) 740–3184, email *John.Z.Downing@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Charleston
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On December 1, 2016, Tall Ships Charleston notified the Coast Guard that they would be sponsoring the Tall Ships Charleston event on May 18, 2017 through May 21, 2017. In response, on March 29, 2017 the Coast Guard published a notice of proposed rulemaking (NPRM) titled ''Safety Zone; Tall Ships Charleston, Cooper River, Charleston, SC'' (82 FR 15476). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this event. During the comment period that ended April 29, 2017, we received no comments.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Insufficient time remains following the closing of the period for public comment for the previously published NPRM, as the Tall Ships Charleston parade will occur before the delay in effective date would be completed. Because the potential hazards associated with public tours of these tall ships, the safety zone is necessary to provide for the safety of event participants.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The purpose of the rule is to ensure safety of life on the navigable water of the United States during Tall Ships Charleston.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on the NPRM, which published March 29, 2017. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone from May 18, 2017 through May 21, 2017. Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Charleston (COTP) by telephone at (843) 740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted, all persons and vessels receiving such authorization must comply with the instructions of the COTP or a designated representative. The Coast Guard will provide notice of the safety zone by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 (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 costs and benefits, reducing costs, harmonizing rules, and 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.''

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 the OMB 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).

The economic impact of this rule is not significant for the following reasons: (1) Although persons and vessels may not enter, transit through, anchor in, or remain within the safety zone without authorization from the COTP or a designated representative, they may operate in the surrounding area during the enforcement period; (2) persons and vessels will still be able to enter, transit through, anchor in, or remain within the regulated area if authorized by the COTP; and (3) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary safety zone issued in conjunction with a regatta or marine parade that will prohibit persons and vessels from entering, transiting through, anchoring in, or remaining within a limited area on the waters of the Cooper River in Charleston, SC. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration (REC) supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T07–0121 to read as follows:

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

(a) *Location.* This safety zone consists of navigable waters of the Cooper River which begin at the shoreline and extend 100 yards off of each pier located at Veterans Terminal in Charleston, SC.

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

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

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

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

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

Dated: May 11, 2017.

G.L. Tomasulo,

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

[FR Doc. 2017–09863 Filed 5–15–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Chapter II

RIN 1810–AB25

[Docket ID: ED–2015–OESE–0129; CFDA Number: 84.371C.]

Final Priorities, Requirements, Definitions, and Selection Criteria—Striving Readers Comprehensive Literacy (SRCL) Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Announcement of final priorities, requirements, definitions, and selection criteria.

SUMMARY: The Assistant Secretary for Elementary and Secondary Education (Assistant Secretary) announces priorities, requirements, definitions, and selection criteria under the SRCL program. These priorities, requirements, definitions, and selection criteria replace the priorities, requirements, definitions, and selection criteria in the SRCL notice inviting applications for new awards for Fiscal Year (FY) 2011, published in the **Federal Register** on March 10, 2011. The Assistant Secretary may use these priorities, requirements, definitions, and selection criteria for competitions in FY 2017 and subsequent years as the Department ensures an orderly transition to future programs under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). We take this action to address an area of national need by providing competitive grant awards to State educational agencies (SEAs) to advance literacy skills, including pre-literacy skills, reading, and writing, for children from birth through grade 12, including children living in poverty, English learners, and children with disabilities.

DATES: These priorities, requirements, definitions, and selection criteria are effective July 17, 2017.

FOR FURTHER INFORMATION CONTACT: Cindy Savage, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E237, Washington, DC 20202. Telephone: (202) 453–5998 or by email: *cindy.savage@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary:

Purpose of this Regulatory Action: The Department will make competitive grant awards under the SRCL program to eligible SEAs for the purpose of advancing literacy skills, including pre-literacy skills, reading, and writing, for children from birth through grade 12, with an emphasis on disadvantaged children, including children living in poverty, English learners, and children with disabilities.

Summary of the Major Provisions of This Regulatory Action: In this document, we announce the final priorities, requirements, definitions, and selection criteria that we may require eligible SEAs to address in order to receive funds under the SRCL program.

In this document, we announce three priorities. The first priority focuses on how SEAs will ensure that (a) the comprehensive literacy instruction programs funded under this grant are supported by moderate evidence or strong evidence and (b) local literacy plans are aligned with the State comprehensive literacy plan. Under the second priority, SEAs must describe a high-quality plan to ensure that local projects serve the greatest numbers or percentages of disadvantaged children. The third priority encourages SEAs to prioritize local literacy plans that align pre-literacy strategies for children aged birth through five with pre-literacy and literacy strategies for students from kindergarten through grade five.

We also announce requirements to ensure that State literacy teams assess the State comprehensive literacy plans on a regular basis and that these plans include continuous improvement activities. In addition, we announce 13 definitions that clarify terms used in the SRCL program.

Finally, we announce selection criteria intended to help identify high-quality applications. These selection criteria will assist the Department in determining the extent to which eligible SEAs submitting applications under the SRCL program will: (1) Provide support and technical assistance, based on an assessment of local needs, to SRCL subgrantees to ensure improvement in the literacy and pre-literacy achievement of children from birth to grade 12 and ensure effectiveness in addressing the needs of disadvantaged children; (2) establish an independent peer review process for awarding subgrants to prioritize awards to eligible subgrantees that propose a high-quality comprehensive literacy instruction program and are supported by moderate or strong evidence; (3) monitor subgrantees' implementation of interventions and practices to ensure fidelity to the local plan, as well as alignment between the SEA's State comprehensive literacy plan and

subgrantees' local literacy plans; and (4) award subgrants of sufficient size that target the greatest numbers or percentages of disadvantaged children, to fully and effectively implement the local literacy plan.

Costs and Benefits: We have determined that these final priorities, requirements, definitions, and selection criteria will not impose significant costs on eligible SEAs. Program participation is voluntary, and the costs imposed on applicants by these final priorities, requirements, definitions, and selection criteria will be limited to paperwork burden related to preparing an application. The potential benefits of implementing the program will outweigh any costs incurred by applicants, and the costs of actually carrying out activities associated with the application will be paid for with program funds. For these reasons, we have determined that the costs of implementation will not be excessively burdensome for eligible applicants, including small entities.

Purpose of Program: The purpose of the SRCL program is to advance literacy skills, including pre-literacy skills, reading, and writing, for all children from birth through grade 12, with a special emphasis on disadvantaged children, including children living in poverty, English learners, and children with disabilities. Through this program, the Department awards competitive grants to SEAs to support subgrants to local educational agencies (LEAs) or other eligible subgrantees, including early learning providers.

Program Authority: Section 1502 of the ESEA, as amended by the No Child Left Behind Act of 2001 (NCLB), and Title III of Division H of the Consolidated Appropriations Act, 2016 (Pub. L. 114–113).[1]

Applicable Program Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

We published a notice of proposed priorities, requirements, definitions, and selection criteria (NPP) for this program in the **Federal Register** on June 20, 2016 (81 FR 39875). That notice contained background information and our reasons for proposing the particular priorities, requirements, definitions, and selection criteria.

There are differences between the NPP and this notice of final priorities, requirements, definitions, and selection criteria (NFP) as discussed under *Analysis of Comments and Changes.*

Public Comment: In response to our invitation in the NPP, eight parties submitted comments on the proposed priorities, requirements, definitions, and selection criteria.

We group major issues according to subject matter. Generally, we do not address technical and other minor changes, or suggested changes the law does not authorize us to make under the applicable statutory authority.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priorities, requirements, definitions, and selection criteria since publication of the NPP follows.

Proposed Priority 2—Serving Disadvantaged Children

Comments: One commenter suggested that, in the context of children from birth to five years old, a distinction should be made between infants and toddlers with developmental delays, particularly, and children with disabilities, generally. Another commenter advised that a developmental delay is not the same as a disability as it relates to infants and toddlers and language and early learning proficiency.

Discussion: We agree with the commenters that there is a difference between a developmental delay and a disability as the terms relate to the language and literacy advancement of children from birth to five years old. Under the Individuals with Disabilities Education Improvement Act of 2004, an infant or toddler with a disability is defined as an individual under three years of age who needs early intervention services because the individual is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development. Since developmental delays distinctly affect infants and toddlers, they should be considered separately from issues pertaining to children with disabilities, generally, when designing a comprehensive literacy instruction program.

Changes: We have revised the definition of *disadvantaged child* to explicitly include infants and toddlers with developmental delays and to differentiate between an infant and toddler with a developmental delay and a child with a disability.

Comments: None.

Discussion: Upon further review, we determined that, when referencing disadvantaged children in this priority, the population of children living in poverty should be specifically included, as are the populations of English learners and children with disabilities. These populations are particularly vulnerable to challenges in attaining the literacy skills that are needed to meet a State's challenging academic standards and for future success in college and career endeavors.

Changes: We have revised the priority to specifically include children living in poverty as a group of disadvantaged children that applicants must serve in order to meet this priority. Additionally, we have specifically included this group of disadvantaged children in the definitions of *disadvantaged child* and *State literacy team.*

Proposed Priority 3—Alignment Within a Birth Through Fifth Grade Continuum

Comments: Several commenters raised concerns that the priority did not sufficiently address the unique learning needs of the youngest children—infants and toddlers—to be served through the SRCL program, and they noted that the process of language and learning experiences are different for younger children than older children. A few commenters suggested that we clarify in this priority that the continuum of learning begins with early care and learning approaches and builds upon skills that lead to improving literacy for preschool to elementary school, and beyond.

Discussion: The Department agrees that the building blocks of literacy must be introduced as early as birth and emphasized throughout preschool and elementary education programs. We agree that the gains children make in early care and learning programs must

[1] Title III of division H of the Consolidated Appropriations Act, 2016 (Pub L. 114–113) appropriated funds for the SRCL program under section 1502 of the ESEA, as amended by the NCLB. As such, the upcoming SRCL competition will be conducted under that authority. The Department notes that the ESEA, as amended in December 2015 by the ESSA, authorizes the Comprehensive Literacy State Development (CLSD) program, a program that is substantively similar to SRCL. See sections 2221–2224 of the ESEA, as amended by the ESSA. To provide for the orderly transition to future programs under the ESSA, the priorities, requirements, definitions, and selection criteria that apply to the SRCL program through this notice align, to the extent possible, with certain new statutory requirements that will apply to the CLSD program.

be sustained and built upon throughout the preschool and elementary levels. Building a preschool through fifth grade system will help to sustain student success, while allowing for differentiation of interventions based on age. Further, we agree that the priority should be clarified to emphasize that grantees must appropriately differentiate their literacy interventions according to the age of children to be served.

Changes: We have revised this priority to require that the high-quality plans to align early language and literacy projects with programs for children in kindergarten through grade five must include a progression of approaches appropriate for each age group.

Requirements

Comments: Several commenters raised concerns about the State comprehensive literacy plan requirement. Specifically, one commenter suggested that we more explicitly require professional development for early childhood educators. A few commenters stated that SEAs should be allowed to update and refine their existing State comprehensive literacy plans rather than be required to develop new ones. Additionally, one commenter requested that we require a comprehensive needs assessment at the State level.

Discussion: We recognize that professional development for early childhood educators is important and, as stated in a response to commenters under *Definitions,* we remind commenters that the definition of *professional development* includes strategies that encompass early childhood education. We believe that no changes to the requirement are needed to ensure that SEAs meaningfully consider the professional development needs of early childhood education personnel.

As to the comment that States be allowed to update existing literacy plans, we recognize that most SEAs will have already developed and implemented comprehensive literacy plans. Indeed, the FY 2010 Striving Readers formula grant program required SEAs to establish or support a State Literacy Team with expertise in literacy development and education for children from birth through grade 12 to assist the State in developing a comprehensive literacy plan. While nothing in the proposed requirement would have precluded an eligible SEA from modifying its existing comprehensive literacy plan, we believe it is helpful to clarify that SEAs may revise an existing plan in order to meet the requirement. Similarly, we recognize the need for State comprehensive literacy plans to be informed by a recent comprehensive needs assessment. We believe that a comprehensive needs assessment conducted within the past five years would be considered sufficently recent.

Changes: We have revised this requirement to clarify that SEAs may update their existing State comprehensive literacy plans to meet the State comprehensive literacy plan requirement. Additionally, we have added to the requirement the need for the State comprehensive literacy plan to be informed by a recent (conducted in the past five years) comprehensive needs assessment.

Comments: A few commenters raised concerns about LEAs' capacity to implement the requirement for local literacy plans. One commenter suggested that we provide example tools or surveys to assist grantees and subgrantees in meeting the needs assessment responsibility outlined in this requirement.

Discussion: We believe that strong local literacy plans are critical to the success of projects funded under SRCL. In particular, we believe that local literacy plans that are informed by a comprehensive needs assessment will support more effective strategies for areas of greatest concern. We recognize that some LEAs may not have the expertise necessary to develop strong needs assessments and agree that examples of needs assessment tools and surveys would be helpful. Accordingly, we intend to offer online resources and other technical assistance to FY 2017 SRCL applicants, as well as grantees and subgrantees.

Changes: None.

Comments: A few commenters requested that the Department: Coordinate with the Institute of Education Sciences (IES) to conduct a national evaluation of the SRCL program; require that grantees participate in the national evaluation; and track a set of common performance measures across grantees.

Discussion: We agree with the commenters that it is important to evaluate the SRCL program to determine its effectiveness. We believe that in order to determine whether the implementation of the SRCL program contributes to positive outcomes at the local, State, and national levels, a national evaluation of the SRCL program that includes a set of common performance measures should be conducted. We further note that section 2225 of the ESEA, as amended by the ESSA, calls for the Director of IES to conduct a national evaluation of the successor to the SRCL program, the Comprehensive Literacy State Development (CLSD) program, newly authorized in title II, part B of the ESEA, as amended by the ESSA.

Changes: We have added a requirement that requires grantees to assure they will only fund subgrantees that provide a written assurance to cooperate with a national evaluation of the SRCL program.

Definitions

Comments: Several commenters requested that we revise the definition of *comprehensive literacy instruction*. One commenter recommended that we expand the definition to reflect current research that includes other components essential to literacy, including print concepts, handwriting and word processing, knowledge required to comprehend text, literacy motivation, and age-appropriate, diverse, high-quality print materials that reflect the reading and development levels and interests of children. A few commenters suggested that the definition include terminology that is consistent with the needs of children ages birth to five, and one commenter requested that the definition include a reference to dual language learners to support language development of early learners. Additionally, one commenter suggested providing examples of professional development opportunities that align with the definition to support meaningful, high-quality implementation of comprehensive literacy instruction.

Discussion: The definition of *comprehensive literacy instruction* is taken from the ESEA, as amended by the ESSA. Although the SRCL program is authorized under section 1502 of the ESEA, as amended by the NCLB, and, therefore, is not statutorily bound to this definition, we recognize the value in aligning elements of this NFP with the CLSD grant program. We believe that, when read in its entirety, the definition addresses overall needs of children from birth to grade 12, including dual language learners, and supports the use of research-based, high-quality, and age-appropriate literacy instruction. Further, in order to allow grantees and subgrantees flexibility in determining the most appropriate literacy instruction for their particular projects, we decline to be more prescriptive on the requirements for the components of comprehensive literacy instruction in this definition or the implementation of professional development activities.

Changes: None.

Comments: Two commenters suggested that the definition of *high-quality plan* does not provide sufficient information to assist grantees in identifying appropriate performance measures that are differentiated by grade span. Both commenters requested that we provide examples of the types of performance measures that could be included as part of a high-quality plan.

Discussion: We believe that the appropriate performance measures for a particular project will depend on the exact nature of the proposed project. In order to allow grantees and subgrantees flexibility in determining the most appropriate performance measures for their particular projects, we decline to be more prescriptive on the requirements for performance measures in this notice. However, we note that any evaluation of the program will require a common set of performance data collected across grantees, and as such the Department has established four Government Performance and Results Act of 1993 (GPRA) performance measures for fiscal year 2017 for the SRCL program. Grantees will be required to report on those GPRA measures, which can be found in the notice inviting applications (NIA) for the SRCL competition, published elsewhere in this issue of the **Federal Register**.

Changes: None.

Comments: One commenter suggested that we revise the definition of *professional development* to include specific activities targeted to early childhood education for children birth to five years old.

Discussion: The definition of *professional development* is taken from the ESEA, as amended by the ESSA. Although this program is authorized under section 1502 of the ESEA, as amended by NCLB, and, therefore, is not statutorily bound to this definition, we recognize the value in aligning elements of this NFP with the successor to the SRCL program, the CLSD grant program. We further believe the definition does not preclude an eligible SEA from conducting specific professional development activities for early childhood educators of children from birth to five years old.

Changes: None.

Comments: A few commenters recommended expanding the definition of *State literacy team* to include, as members, individuals with other types of experience. Specifically, commenters requested adding specialized instructional support personnel; representatives from institutions of higher education; and representatives of the business community to the definition.

Discussion: We agree that State literacy teams should consist of individuals with diverse professional experiences. While the proposed definition would not have precluded an eligible SEA from adding members to its State literacy team with additional expertise outside those areas described in the definition, we agree that States should have the flexibility to design their own teams as they see fit.

Changes: We have modified the definition to further clarify that States have flexibility in determining if additional team members are needed.

Comments: Several commenters recommended that the SRCL program use the definition of *evidence-based* in section 8101(21)(A) of the ESEA, as amended by the ESSA, instead of the definitions of *moderate evidence of effectiveness* and *strong evidence of effectiveness* in 34 CFR 77.1. In particular, several commenters recommended that Priority 1, the requirement for local literacy plans, and the selection criteria on State-level activities, SEA plan for subgrants, and SEA monitoring plans incorporate the definition of *evidence-based* in the ESEA, as amended by the ESSA. Additionally, one commenter emphasized the need to fund more programs that utilize more rigorous and independent evaluations.

Discussion: We appreciate the commenters' support for evidence-based literacy interventions and, upon reflection and consideration of these comments, agree that the SRCL program should align its definitions related to evidence with definitions in the ESEA, as amended by the ESSA. Although this program is authorized under section 1502 of the ESEA, as amended by NCLB, and, therefore, is not statutorily bound to this definition, we recognize the value in aligning elements of this NFP with the ESSA definition to ensure an orderly transition to future programs under the ESEA, as amended by the ESSA.

At the time of the publication of the NPP, only a few months following the enactment of the ESSA, we did not believe that the Department would be ready to begin aligning programs with the ESSA definition of *evidence-based,* and we believe it is important for the Department's competitive programs to use a consistent approach to evidence-based grant-making. However, since the publication of the NPP, the Department issued non-regulatory guidance interpreting the ESSA definition,[2] and at this point we believe we are ready to align SRCL with the ESSA definition of *evidence-based*.

At the same time, however, we want the SRCL program to maintain a focus on literacy activities supported by the highest levels of evidence. In our review of existing research on literacy interventions for children from early childhood to grade 12, we determined that sufficient evidence exists at the moderate and strong levels to warrant an approach for this program that incorporates only the two highest levels of the ESSA definition of *evidence-based*.

Changes: We have added definitions for the terms *evidence-based, strong evidence,* and *moderate evidence* that match the standards in section 8101(21)(A)(i)(I) and (II) of the ESEA, as amended by the ESSA. We have made conforming changes to Priority 1, the requirement for local literacy plans, and the selection criteria on State-level activities, SEA plan for subgrants, and SEA monitoring plans by removing references to the definitions of *moderate evidence of effectiveness* and *strong evidence of effectiveness* in 34 CFR 77.1 and substituting the terms *strong evidence* and *moderate evidence*.

Comments: None.

Discussion: Upon further review, we noted that a definition of *English learner* is not included in the statutory language authorizing the SRCL program, and determined that, given the focus of the program, we should provide a definition of this term in the NFP. To that end, we have included the definition of *English learner* that is consistent with how that term is defined in section 8101 of the ESEA, as amended by the ESSA.

Changes: We have added a definition of *English learner*.

Selection Criteria

Comments: One commenter recommended an additional selection criterion that assesses the extent to which the SEA applicant differentiates between interventions and practices that are appropriate for children birth through age five and children from kindergarten to grade 5.

Discussion: We agree that early childhood education is important in laying the foundation for all learning, behavior, and health across a child's lifespan. SRCL requires that grantees ensure that at least 15 percent of the subgranted funds are used to improve early literacy development of children from birth through kindergarten entry,

[2] *See: https://www2.ed.gov/policy/elsec/leg/essa/guidanceuseseinvestment.pdf.*

and envisions high-quality professional development to increase the knowledge of early childhood educators in supporting early language and literacy development. We agree with the commenter that it is important to recognize the nuances of developing early literacy skills of infants and toddlers, especially as they are different from the literacy skills of older children. We believe it will be important for the SEA's monitoring plan to ensure that LEAs' interventions and practices are differentiated and appropriate for children from birth through age five and children in kindergarten through grade 5.

Changes: We have revised the SEA monitoring plan selection criterion to include a focus on differentiated local strategies that are appropriate for children from birth through age five and children in kindergarten through grade 5.

Comments: None.

Discussion: In the NPP, the selection criterion relating to the SEA monitoring plan addressed the extent to which proposed interventions and practices are implemented with fidelity and aligned with the SEA's State comprehensive literacy plan and local needs. We believe that the term *local literacy plan* should be used instead of local needs to reflect the language used in the requirements established in this document.

Changes: We have revised the SEA monitoring plan selection criterion to include the term *local literacy plan*.

Final Priorities

Priority 1—Interventions and Practices Supported by Moderate or Strong Evidence.

Under this priority, a State educational agency (SEA) must ensure that evidence plays a central role in the SRCL subgrants. Specifically, in its high-quality plan, an SEA must assure that (1) it will use an independent peer review process to prioritize awards to eligible subgrantees that propose high-quality comprehensive literacy instruction programs that are supported by moderate evidence or strong evidence, where evidence is applicable and available, and (2) the comprehensive literacy instruction program proposed by eligible subgrantees will align with the State's comprehensive literacy plan as well as local needs.

Priority 2—Serving Disadvantaged Children.

Under this priority, an SEA must describe in its application a high-quality plan to award subgrants that will serve the greatest numbers or percentages of disadvantaged children, including children living in poverty, English learners, and children with disabilities.

Priority 3—Alignment within a Birth through Fifth Grade Continuum.

Under this priority, an SEA must describe in its application a high-quality plan to align, through a progression of approaches appropriate for each age group, early language and literacy projects supported by this grant that serve children from birth to age five with programs and systems that serve students in kindergarten through grade five to improve school readiness and transitions for children across this continuum.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Requirements

The Assistant Secretary establishes the following requirements for the purposes of the SRCL program. We may apply one or more of these requirements in any year in which this program is in effect.

State Comprehensive Literacy Plan: To be considered for an award under this program, an SEA must submit a new or revised State comprehensive literacy plan that is informed by a recent (conducted in the past five years) and comprehensive needs assessment developed with the assistance of its State literacy team. Additionally, the plan must be reviewed by the State literacy team and updated annually if an SEA receives an award under this program.

Local Literacy Plan: Grantees must ensure that they will only fund subgrantees that submit a local literacy plan that: (1) Is informed by a comprehensive needs assessment and that is aligned with the State comprehensive literacy plan; (2) provides for professional development; (3) includes interventions and practices that are supported by moderate evidence or strong evidence, where evidence is applicable and available; and (4) includes a plan to track children's outcomes consistent with all applicable privacy requirements.

Prioritization of Subgrants: In selecting among eligible subgrantees, an SEA must give priority to eligible subgrantees serving greater numbers or percentages of disadvantaged children.

Continuous Program Improvement: Grantees must use data, including the results of monitoring and evaluations and other administrative data, to inform the program's continuous improvement and decisionmaking, to improve program participant outcomes, and to ensure that disadvantaged children are served. Additionally, grantees must ensure that subgrantees, educators, families, and other key stakeholders receive the results of the evaluations conducted on the effectiveness of the program in a timely fashion, consistent with all applicable Federal, State, and other privacy requirements.

Supplement not Supplant: Grantees must use funds under this program to supplement, and not supplant, any non-Federal funds that would be used to advance literacy skills for children from birth through grade 12.

Cooperation with National Evaluation: Applicants must assure they will only fund subgrantees that provide a written assurance to cooperate with a national evaluation of the SRCL program conducted by the Department. This may include adhering to the results of a random assignment process (*e.g.,* lottery) to select schools or early learning providers that will receive SRCL funds as well as agreeing to implement the literacy interventions proposed to be funded under SRCL only in schools or early learning providers that will receive SRCL funds.

Final Definitions

The Assistant Secretary establishes the following definitions for the purposes of the SRCL program. We may apply one or more of these definitions in any year in which this program is in effect.

Comprehensive literacy instruction means instruction that—

(a) Includes developmentally appropriate, contextually explicit, and

systematic instruction, and frequent practice, in reading and writing across content areas;

(b) Includes age-appropriate, explicit, systematic, and intentional instruction in phonological awareness, phonic decoding, vocabulary, language structure, reading fluency, and reading comprehension;

(c) Includes age-appropriate, explicit instruction in writing, including opportunities for children to write with clear purposes, with critical reasoning appropriate to the topic and purpose, and with specific instruction and feedback from instructional staff;

(d) Makes available and uses diverse, high-quality print materials that reflect the reading and development levels, and interests, of children;

(e) Uses differentiated instructional approaches, including individual and small group instruction and discussion;

(f) Provides opportunities for children to use language with peers and adults in order to develop language skills, including developing vocabulary;

(g) Includes frequent practice of reading and writing strategies;

(h) Uses age-appropriate, valid, and reliable screening assessments, diagnostic assessments, formative assessment processes, and summative assessments to identify a child's learning needs, to inform instruction, and to monitor the child's progress and the effects of instruction;

(i) Uses strategies to enhance children's motivation to read and write and children's engagement in self-directed learning;

(j) Incorporates the principles of universal design for learning;

(k) Depends on teachers' collaboration in planning, instruction, and assessing a child's progress and on continuous professional learning; and

(l) Links literacy instruction to the State's challenging academic standards, including standards relating to the ability to navigate, understand, and write about complex subject matters in print and digital formats.

Disadvantaged child means a child from birth to grade 12 who is at risk of educational failure or otherwise in need of special assistance and support, including a child living in poverty, a child with a disability, or a child who is an English learner. This term also includes infants and toddlers with developmental delays or a child who is far below grade level, who has left school before receiving a regular high school diploma, who is at risk of not graduating with a diploma on time, who is homeless, who is in foster care, or who has been incarcerated.

Eligible subgrantee means one or more LEAs or, in the case of early literacy, one or more LEAs or nonprofit providers of early childhood education, with a demonstrated record of effectiveness in improving language and early literacy development of children from birth through age five and in providing professional development in language and early literacy development.

English learner means an individual—

(a) Who is aged 3 through 21;

(b) Who is enrolled or preparing to enroll in an elementary school or secondary school;

(c)(i) Who was not born in the United States or whose native language is a language other than English;

(ii)(I) Who is a Native American or Alaska Native, or a native resident of the outlying areas; and

(II) Who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

(iii) Who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

(d) Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—

(i) The ability to meet the challenging State academic standards;

(ii) The ability to successfully achieve in classrooms where the language of instruction is English; or

(iii) The opportunity to participate fully in society.

Evidence-based, when used with respect to a State, local educational agency, or school activity, means and activity, strategy, or intervention that—

(a) Demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes based on—

(i) Strong evidence from at least one-well designed and well-implemented experimental study;

(ii) moderate evidence from at least one well-designed and well-implemented quasi-experimental study; or

(iii) promising evidence from at least one well-designed and well-implemented correlational study with statistical controls for selection bias; or

(b)(i) demonstrates a rationale based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes; and

(ii) includes ongoing efforts to examine the effects of such activity, strategy or intervention.

High-quality plan means any plan developed by the SEA that is feasible and has a high probability of successful implementation and, at a minimum, includes—

(a) The key goals of the plan;

(b) The key activities to be undertaken and the rationale for how the activities support the key goals;

(c) A realistic timeline, including key milestones, for implementing each key activity;

(d) The party or parties responsible for implementing each activity and other key personnel assigned to each activity;

(e) A strong theory, including a rationale for the plan and a corresponding logic model as defined in 34 CFR 77.1;

(f) Performance measures at the State and local levels; and

(g) Appropriate financial resources to support successful implementation of the plan.

Independent peer review means a high-quality, transparent review process informed by outside individuals with expertise in literacy development and education for children from birth through grade 12.

Moderate evidence means a statistically significant effect on improving student outcomes or other relevant outcomes based on at least one well-designed and well-implemented quasi-experimental study.

Professional development means activities that—

(a) Are an integral part of school and LEA strategies for providing educators (including teachers, principals, other school leaders, specialized instructional support personnel, paraprofessionals, and, as applicable, early childhood educators) with the knowledge and skills necessary to enable students to succeed in a well-rounded education and to meet the State's challenging academic standards;

(b) Are sustained (not stand-alone, one-day, or short term workshops), intensive, collaborative, job-embedded, data-driven, and classroom-focused; and

(c) May include activities that—

(1) Improve and increase teachers'—

(i) Knowledge of the academic subjects the teachers teach;

(ii) Understanding of how students learn; or

(iii) Ability to analyze student work and achievement from multiple sources, including how to adjust instructional strategies, assessments, and materials based on such analysis;

(2) Are an integral part of broad schoolwide and districtwide educational improvement plans;

(3) Allow personalized plans for each educator to address the educator's specific needs identified in observation or other feedback;

(4) Improve classroom management skills;

(5) Support the recruitment, hiring, and training of effective teachers, including teachers who became certified through State and local alternative routes to certification;

(6) Advance teacher understanding of—

(i) Effective instructional strategies that are evidence-based; or

(ii) Strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of teachers;

(7) Are aligned with, and directly related to, academic goals of the school or LEA;

(8) Are developed with extensive participation of teachers, principals, other school leaders, parents, representatives of Indian Tribes (as applicable), and administrators of schools to be served under this program;

(9) Are designed to give teachers of English learners, and other teachers and instructional staff, the knowledge and skills to provide instruction and appropriate language and academic support services to those children, including the appropriate use of curricula and assessments;

(10) To the extent appropriate, provide training for teachers, principals, and other school and community-based early childhood program leaders in the use of technology (including education about the harms of copyright piracy), so that technology and technology applications are effectively used in the classroom to improve teaching and learning in the curricula and academic subjects in which the teachers teach;

(11) As a whole, are regularly evaluated for their impact on teacher effectiveness and student academic achievement, with the findings of the evaluations used to improve the quality of professional development;

(12) Are designed to give teachers of children with disabilities or children with developmental delays, and other teachers and instructional staff, the knowledge and skills to provide instruction and academic support services to those children, including positive behavioral interventions and supports, multi-tier system of supports, and use of accommodations;

(13) Provide instruction in the use of data and assessments to inform classroom practice;

(14) Provide instruction in ways that teachers, principals, other school leaders, specialized instructional support personnel, and school administrators may work more effectively with parents and families;

(15) Involve the forming of partnerships with institutions of higher education, including, as applicable, Tribal Colleges and Universities as defined in section 316(b) of the Higher Education Act of 1965, as amended (20 U.S.C. 1059c(b)), to establish school-based teacher, principal, and other school leader training programs that provide prospective teachers, novice teachers, principals, and other school leaders with an opportunity to work under the guidance of experienced teachers, principals, other school leaders, and faculty of such institutions;

(16) Create programs to enable paraprofessionals (assisting teachers employed by an LEA receiving assistance under part A of title I) to obtain the education necessary for those paraprofessionals to become certified and licensed teachers;

(17) Provide follow-up training to teachers who have participated in activities described in this paragraph (c) that are designed to ensure that the knowledge and skills learned by the teachers are implemented in the classroom; or

(18) Where practicable, provide for school staff and other early childhood education program providers to address jointly the transition to elementary school, including issues related to school readiness.

State comprehensive literacy plan means a plan that addresses the pre-literacy and literacy needs of children from birth through grade 12, with special emphasis on disadvantaged children. A State comprehensive literacy plan is informed by a recent (conducted in the past five years) comprehensive needs assessment; aligns policies, resources, and practices; contains clear instructional goals; sets high expectations for all children and subgroups of children; and provides for professional development for all teachers in effective literacy instruction.

State literacy team means a team comprised of individuals with expertise in literacy development and education for children from birth through grade 12. The State literacy team must include individuals with expertise in the following areas:

(a) Implementing literacy development practices and instruction for children in the following age/grade levels: Birth through age five, kindergarten through grade 5, grades 6 through 8, and grades 9 through 12;

(b) Managing and implementing literacy programs that are supported by strong evidence or moderate evidence;

(c) Evaluating comprehensive literacy instruction programs;

(d) Planning for and implementing effective literacy interventions and practices, particularly for disadvantaged children, children living in poverty, struggling readers, English learners, and children with disabilities;

(e) Implementing assessments in the areas of phonological awareness, word recognition, phonics, vocabulary, comprehension, fluency, and writing; and

(f) Implementing professional development on literacy development and instruction.

A literacy team member may have expertise in more than one area. Team members may also include, but are not limited to: Library/media specialists; parents; literacy coaches; instructors of adult education; representatives of community-based organizations providing educational services to disadvantaged children and families; family literacy service providers; representatives from local or State school boards; and representatives from related child services agencies.

Strong evidence means a statistically significant effect on improving student outcomes or other relevant outcomes based on at least one well-designed and well-implemented experimental study.

Universal design for learning, as defined under section 103 of the Higher Education Act of 1965, as amended, means a scientifically valid framework for guiding educational practice that—

(a) Provides flexibility in the ways information is presented, in the ways students respond or demonstrate knowledge and skills, and in the ways students are engaged; and

(b) Reduces barriers in instruction, provides appropriate accommodations, supports, and challenges, and maintains high achievement expectations for all students, including students with disabilities and students who are limited English proficient.[3]

Final Selection Criteria

The Assistant Secretary establishes the following selection criteria for evaluating an application under this program. We may apply one or more of these criteria in any year in which this program is in effect. In the NIA, the application package, or both, we will announce the maximum possible points assigned to each criterion.

(a) *State-level activities.*

[3] English learner and limited English proficient have the same meaning.

To determine the quality of the applicant's State-level activities, the Secretary considers—

(1) The extent to which the SEA will support and provide technical assistance to its SRCL program subgrantees to ensure they implement a high-quality comprehensive literacy instruction program that will improve student achievement, including technical assistance on identifying and implementing with fidelity interventions and practices that are supported by moderate evidence or strong evidence and align with local needs; and

(2) The extent to which the SEA will collect data and other information to inform the continuous improvement, and evaluate the effectiveness and impact, of local projects.

(b) *SEA plan for subgrants.*

To determine the quality of the applicant's SEA plan for subgrants, the Secretary considers the extent to which the SEA has a high-quality plan to use an independent peer review process to award subgrants that propose a high-quality comprehensive literacy instruction program, including—

(1) A plan to prioritize projects that will use interventions and practices that are supported by moderate evidence or strong evidence; and

(2) A process to determine—

(i) The alignment of the local project to the State's comprehensive literacy plan and the local literacy plan;

(ii) The relevance of cited studies to the project proposed and identified needs;

(iii) The extent to which the intervention or practice is supported by moderate evidence or strong evidence; and

(iv) The extent to which the interventions and practices are differentiated and are appropriate for children from birth through age five and children in kindergarten through grade 5.

(c) *SEA monitoring plan.*

To determine the quality of the applicant's SEA monitoring plan, the Secretary considers the extent to which the SEA describes a high-quality plan for monitoring local projects, including how it will ensure that—

(1) The interventions and practices that are part of the comprehensive literacy instruction program are aligned with the SEA's State comprehensive literacy plan;

(2) The interventions and practices that subgrantees implement are supported by moderate evidence or strong evidence, to the extent appropriate and available;

(3) The interventions and practices are differentiated and are appropriate for children from birth through age five and children in kindergarten through grade 5; and

(4) The interventions and practices are implemented with fidelity and aligned with the SEA's State comprehensive literacy plan and the local literacy plan.

(d) *Alignment of resources.*

To determine the quality of the applicant's alignment of resources, the Secretary considers the extent to which the SEA will: (1) Target subgrants supporting projects that will improve instruction for the greatest numbers or percentages of disadvantaged children; and (2) award subgrants of sufficient size to fully and effectively implement the local plan while also ensuring that at least—

(a) 15 percent of the subgranted funds serve children from birth through age five;

(b) 40 percent of the subgranted funds serve students in kindergarten through grade five; and

(c) 40 percent of the subgranted funds serve students in middle and high school, through grade 12, including an equitable distribution of funds between middle and high schools.

This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use these priorities, requirements, definitions and selection criteria, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866, 13563, and 13771

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action will have an annual effect on the economy of more than $100 million because the amount of government transfers through the SRCL program exceeds that amount. Therefore, this final regulatory action is ''economically significant'' and subject to review by OMB under section 3(f)(1) of Executive Order 12866. Notwithstanding this determination, we have assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action and have determined that the benefits justify the costs.

Under Executive Order 13771, for each new regulation that the Department proposes for notice and comment or otherwise promulgates that is a significant regulatory action under Executive Order 12866, it must identify two deregulatory actions. For FY 2017, any new incremental costs associated with a new regulation must be fully offset by the elimination of existing costs through deregulatory actions. Although this regulatory action is an economically significant regulatory action, the requirements of Executive Order 13771 do not apply because this regulatory action is a ''transfer rule'' not covered by the Executive order.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety,

and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing these final priorities, requirements, definitions, and selection criteria only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this final regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In this regulatory impact analysis, we discuss the need for regulatory action, the potential costs and benefits, net budget impacts, assumptions, limitations, and data sources, as well as regulatory alternatives we considered.

Need for Regulatory Action

These final priorities, requirements, definitions, and selection criteria are needed to implement the SRCL program award process in the manner that the Department believes will best enable the program to achieve its objectives of implementing effective literacy and pre-literacy interventions and practices, at the local level, for disadvantaged children.

Potential Costs and Benefits

The Department believes that the final priorities, requirements, definitions, and selection criteria will not impose significant costs on SEAs. Program participation is voluntary, and the costs imposed on applicants by the final priorities, requirements, definitions, and selection criteria are limited to paperwork burden related to preparing an application. The potential benefits of implementing the program using the final priorities, requirements, definitions, and selection criteria are designed to outweigh any costs incurred by applicants, and the costs of actually carrying out activities associated with the application may be paid for with program funds. For these reasons, the Department has determined that the costs of implementation will not be an undue burden for eligible applicants, including small entities.

Accounting Statement

As required by OMB Circular A–4 (available at *www.whitehouse.gov/sites/default/files/omb/assets/omb/circulars/a004/a-4.pdf*), in the following table we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of this regulatory action. This table provides our best estimate of the changes in annual monetized transfers as a result of this regulatory action. Expenditures are classified as transfers from the Federal Government to SEAs.

ACCOUNTING STATEMENT CLASSIFICATION OF ESTIMATED EXPENDITURES

Category	Transfers
Annualized Monetized Transfers	$357.2M.
From Whom To Whom?	From Federal Government to SEAs.

The SRCL program will provide approximately $357,200,000 in competitive grants to eligible SEAs.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 11, 2017.

Jason Botel,

Acting Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2017–09897 Filed 5–15–17; 8:45 am]

BILLING CODE 4000–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket Nos. 14–50, 09–182, 07–294, 04–256; FCC 16–107]

2014 Quadrennial Regulatory Review

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved the information collection requirements associated with the Commission's *Second Report and Order,* 2014 Quadrennial Regulatory Review, FCC 16–107. This document is consistent with the *Second Report and Order,* which stated that the Commission would publish a document in the **Federal Register** announcing

OMB approval and the effective date of changes to the forms.

DATES: Changes to FCC Form 301, FCC Form 314, and FCC Form 315, published at 81 FR 76220–01, Nov. 1, 2016, are effective on May 16, 2017.

FOR FURTHER INFORMATION CONTACT: Cathy Williams by email at *Cathy.Williams@fcc.gov* and telephone at (202) 418–2918.

SUPPLEMENTARY INFORMATION: This document announces that on January 11, 2017, OMB approved the information collection requirements, OMB Control Numbers 3060–0027 and 3060–0031, for the non-substantive changes to the forms associated with the Commission's *Second Report and Order,* FCC 16–107, published at 81 FR 76220–01, Nov. 1, 2016. The Commission publishes this document as an announcement of the effective date of those information collection requirements.

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that on January 11, 2017, OMB approved non-substantive changes to FCC Form 301, FCC Form 314, and FCC Form 315. In doing so, OMB approved non-substantive changes to the pre-approved information collection requirements of OMB Control Numbers 3060–0027 and 3060–0031. Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Numbers are 3060–0027 and 3060–0031.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–0027.

OMB Approval Date: January 11, 2017.

OMB Expiration Date: March 31, 2019.

Title: FCC Form 301, Application for Construction Permit for Commercial Broadcast Station; FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule A; 47 CFR 73.3700(b)(1) and (2), Post Auction Licensing.

Form Number: FCC Forms 301 and FCC Form 2100, Schedule A.

Respondents: Business or other for-profit entities; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents and Responses: 3,080 respondents; 6,516 responses.

Estimated Time per Response: 1 to 6.25 hours.

Frequency of Response: One-time reporting requirement; On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 15,287 hours.

Total Annual Cost: $62,775,788.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: FCC Form 301 and the applicable exhibits/explanations are required to be filed when applying for authority to construct a new commercial broadcast station or to modify a licensed facility, construction permit, or application. The revised information collection requirements associated with FCC Form 301 contain non-substantive changes related to the *Second Report and Order.*

OMB Control Number: 3060–0031.

OMB Approval Date: January 11, 2017.

OMB Expiration Date: September 30, 2018.

Title: Application for Consent to Assignment of Broadcast Station Construction Permit or License, FCC Form 314; Application for Consent to Transfer Control of Entity Holding Broadcast Station Construction Permit or License, FCC Form 315; Section 73.3580, Local Public Notice of Filing of Broadcast Applications.

Form Number: FCC Forms 314 and 315.

Respondents: Business or other for-profit entities; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents and Responses: 4,840 respondents; 12,880 responses.

Estimated Time per Response: 0.084 to 6 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in Sections 154(i), 303(b) and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 18,670 hours.

Total Annual Cost: $52,519,656.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: FCC Form 314 and the applicable exhibits/explanations are required to be filed when applying for consent for assignment of an AM, FM, Low Power FM (LPFM) or TV broadcast station construction permit or license. In addition, the applicant must notify the Commission when an approved assignment of a broadcast station construction permit or license has been consummated.

FCC Form 315 and applicable exhibits/explanations are required to be filed when applying for transfer of control of an entity holding an AM, FM, LPFM or TV broadcast station construction permit or license. In addition, the applicant must notify the Commission when an approved transfer of control of a broadcast station construction permit or license has been consummated. Due to the similarities in the information collected by these two forms, OMB has assigned both forms OMB Control Number 3060–0031.

The revised information collection requirements associated with FCC Forms 314 and 315 contain non-substantive changes related to the *Second Report and Order.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2017–09889 Filed 5–15–17; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 160808696–7010–02]

RIN 0648–BG86

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2017–2018 Biennial Specifications and Management Measures; Inseason Adjustments

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; inseason adjustments to biennial groundfish management measures.

SUMMARY: This final rule announces inseason changes to management measures in the Pacific Coast groundfish fisheries. This action, which is authorized by the Pacific Coast Groundfish Fishery Management Plan (PCGFMP), is intended to allow fisheries to access more abundant groundfish stocks while protecting overfished and depleted stocks.

DATES: This final rule is effective May 12, 2017.

FOR FURTHER INFORMATION CONTACT: Gretchen Hanshew, phone: 206–526–6147, fax: 206–526–6736, or email: *gretchen.hanshew@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access

This rule is accessible via the Internet at the Office of the Federal Register Web site at *https://www.federalregister.gov.* Background information and documents are available at the Pacific Fishery Management Council's Web site at *http://www.pcouncil.org/.*

Background

The Council, in coordination with Pacific Coast Treaty Indian Tribes and the States of Washington, Oregon, and California, recommended changes to current groundfish management measures at its April 6–11, 2017 meeting. The Council recommended taking a portion of the Pacific ocean perch (POP) initially deducted from the ACL that would likely go unharvested in 2017 and making it available to the mothership (MS) and catcher/processor (C/P) sectors of the at-sea Pacific whiting fishery; 3.5 metric tons (mt) to each sector. The Council also recommended a modest increase in sablefish trip limits in the open access fishery for the area north of 36° N. lat. based on the best available fishery data.

Transferring POP to the MS and C/P Sectors

As part of biennial harvest specifications and management measures, annual catch limits (ACLs) are set for non-whiting groundfish species, deductions are made ''off-the-top'' from the ACL for various sources of mortality (including non-groundfish fisheries that catch groundfish incidentally, also called incidental open access fisheries) and the remainder, the fishery harvest guideline, is allocated among the groundfish fisheries. Regulations at § 660.60(c)(3)(ii) allow NMFS to distribute these ''off-the-top'' deductions from the ACL to fisheries inseason under certain circumstances. Also, consistent with section 6.5.2 of the PCGFMP, NMFS has the authority to implement management measures to reduce bycatch of non-groundfish species and, under certain circumstances, the measures may be implemented inseason. However, under no circumstances may the intention of such management measures be simply to provide more fish to a different user group or to achieve other allocation objectives.

Pacific whiting fisheries encounter Klamath River Chinook salmon incidentally, particularly when fishing off the central and southern Oregon coast. At its March, 2017 meeting, the Council received the most recent projections of salmon stock status (Preseason Report I) and considered that Klamath River Chinook will not meet escapement goals for 2017 by a historically large margin. At its April meeting the Council recommended complete closure of commercial salmon fisheries off southern Oregon and northern California (approximately 44° N. lat. to 40°10′ N. lat.) and closure of recreational salmon fisheries in similar areas (approximately 42°45′ N. lat. to 40°10′ N. lat.) to protect Klamath River Chinook salmon.

Chinook salmon bycatch in the Pacific whiting fishery varies by latitude, with 81 percent of Chinook being taken when fishing between Cape Falcon (45°46′ N. lat.) and Cape Blanco (42°50′ N. lat.). This is a similar area in which Klamath River Chinook stocks are commonly encountered, where all commercial and recreational salmon fishing in 2017 is closed. At-sea processing of Pacific whiting is currently prohibited south of 42° N. lat. (the Oregon-California border) per regulations at § 660.131(e). Both the MS and C/P sectors expressed willingness to modify operations to avoid Chinook salmon bycatch, but acknowledged that difficulties were likely given their rockfish allocations and historically high Pacific whiting allocations. While moving harvesting operations north to Washington and northern Oregon would likely reduce impacts of the Pacific whiting fishery on Klamath River Chinook, bycatch of POP in the Pacific whiting fisheries has been highest when fishing off Washington.

At the April meeting, the MS sector requested an increase to their POP set-aside to accommodate northern movement of the fleet to reduce harvest of Klamath River Chinook and to prevent closure of the MS sector prior to harvesting their full allocation of Pacific whiting. At the start of 2017, the MS and C/P sectors of the Pacific whiting fishery were allocated 9.0 mt and 12.7 mt of POP, respectively, per regulations at § 660.55(c)(1)(i)(B). The limited availability of overfished species that can be taken as incidental catch in the Pacific whiting fisheries, particularly darkblotched rockfish and POP, led NMFS to implement sector-specific allocations for these species to the Pacific whiting fisheries. If the sector-specific allocation for a non-whiting species is reached, NMFS may close one or more of the at-sea sectors automatically, per regulations at § 660.60(d).

To accommodate movement of the at-sea fleets farther north, away from Klamath River Chinook and into waters with historically higher bycatch rates of POP, the Council considered moving POP quota that would otherwise go unharvested in the incidental open access fishery (primarily the pink shrimp fishery) to the MS and C/P sectors. The Council's intent is to maintain 2017 harvest opportunities for the MS and C/P sectors of the Pacific whiting fishery, while protecting Klamath River Chinook. At the start of 2017 a total of 49.4 mt of POP was deducted off-the-top from the ACL, including 10 mt to account for mortality in the incidental open access fishery.

The Council also considered best available information regarding mortality levels of POP in the incidental open access fishery to evaluate whether all 49.4 mt would be taken in 2017, and if any of those fish that would go unharvested and could be transferred to the MS and C/P sectors inseason to accommodate higher POP bycatch if the fleet moves north to avoid Chinook. Mortality of POP in the incidental open access fisheries in 2011–2013 was below 0.6 mt per year, with uncharacteristically high mortality in 2014 of 10 mt. However, mortality of rockfish in the pink shrimp trawl fishery reduced dramatically again in 2015, with an estimated POP mortality of 0.3 mt. Following a 2014 research study, it is likely that use of light emitting diode (LED) lights in the pink shrimp fishery has become widespread. When LED lights were affixed to the shrimp trawl gear, the 2014 study showed a drastic reduction in bycatch of rockfish, which is supported by 2015 total mortality estimates. Therefore, it is likely that mortality of POP in the incidental open access fishery will be less than 1 mt in 2017.

Therefore, the Council recommended and NMFS is implementing a redistribution of 7 mt of POP, from the off-the-top deductions that were made at

the start of the 2017–2018 biennium, to the MS and C/P sectors, 3.5 mt to each sector, to accommodate potential bycatch of POP as each sector prosecutes their 2017 Pacific whiting allocations in areas where bycatch of Klamath River Chinook is less likely.

This rule redistributes 7 mt of POP that is anticipated to go unharvested in the incidental open access fisheries through the end of 2017 to the MS and C/P sectors, implementing the Council's recommendation to increase the POP set-asides to 12.5 mt for the MS sector and 16.2 mt for the C/P sector, and providing the fleet added flexibility to fish in areas where Klamath River Chinook are less likely to be encountered while reducing the risk of closure of the MS and C/P sectors prior to full attainment of the Pacific whiting allocation if higher bycatch rates of POP occur as expected in 2017. Mortality of POP in the incidental open access fishery was lower than anticipated in 2015, and the projected mortality for 2017 indicates it will be within the remaining 3 mt off-the-top deduction after transferring the 7 mt to the MS and C/P sectors. Transfer of POP to the MS and C/P sectors, when combined with projected impacts from all other sources, is not expected to result in greater impacts to POP or other overfished species than originally projected through the end of the year.

Open Access (OA) Sablefish Daily Trip Limit (DTL) Fisheries North of 36° N. Lat.

To increase harvest opportunities for OA fixed gear sablefish DTL fisheries north of 36° N. lat., the Council considered increases to trip limits. The Council's Groundfish Management Team (GMT) made model-based landings projections for the OA fixed gear sablefish DTL fishery north of 36° N. lat. for the remainder of the year. These projections were based on the most recent information available. The model predicted harvest of 80 percent (338 mt) of the OA harvest guideline (HG) (425 mt) under current trip limits. This indicated that projected catch in the OA fishery was lower than anticipated when the trip limits were initially established (98 percent (418 mt) of the OA HG). With the increase in trip limits, predicted harvest is 90 percent (382 mt) of the OA HG (425 mt). Projections for the limited entry fixed gear fishery north of 36° N. lat. and for fixed gear sablefish fisheries south of 36° N. lat. were similar to levels anticipated in the biennial harvest specifications and management measures, and no requests were made by industry for changes; therefore, and no inseason actions were considered. This increase in trip limits does not change projected impacts to co-occurring overfished species, as the projected impacts to those species assume that the entire sablefish ACL is harvested.

Therefore, the Council recommended and NMFS is implementing trip limit changes for the OA sablefish DTL fishery north of 36° N. lat. The trip limits for sablefish in the OA fishery north of 36° N. lat. are increased from ''300 lb (136 kg) per day, or one landing per week of up to 900 lb (408 kg), not to exceed 1,800 lb (817 kg) per two months'' to ''300 lb (136 kg) per day, or one landing per week of up to 1,000 lb (454 kg), not to exceed 2,000 lb (907 kg) per two months'' during period 3 through the end of the year.

Classification

This final rule makes routine inseason adjustments to groundfish fishery management measures, based on the best available information, consistent with the PCGFMP and its implementing regulations.

This action is taken under the authority of 50 CFR 660.60(c) and is exempt from review under Executive Order 12866.

The aggregate data upon which these actions are based are available for public inspection at the Office of the Administrator, West Coast Region, NMFS, during business hours.

NMFS finds good cause to waive prior public notice and comment on the revisions to groundfish management measures under 5 U.S.C. 553(b) because notice and comment would be impracticable and contrary to the public interest. Also, for the same reasons, NMFS finds good cause to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(3), so that this final rule may become effective May 12, 2017. The adjustments to management measures in this document affect commercial fisheries in Washington, Oregon and California. No aspect of this action is controversial, and changes of this nature were anticipated in the biennial harvest specifications and management measures established for 2017–2018.

Accordingly, for the reasons stated below, NMFS finds good cause to waive prior notice and comment and to waive the delay in effectiveness.

Transferring POP to the MS and C/P Sectors

At the April 2017 Council meeting, the Council recommended that the redistribution of POP to the MS and C/P sectors and be implemented as quickly as possible to facilitate fishing for Pacific whiting in northern waters to avoid bycatch of Klamath River Chinook salmon. There was not sufficient time after that meeting to undergo proposed and final rulemaking before this action needs to be in effect. Affording the time necessary for prior notice and opportunity for public comment would postpone transfer of POP to the MS and C/P sectors until later in the season, or potentially eliminate the possibility of doing so during the 2017 calendar year entirely, and is therefore impractical. Failing to reapportion POP to the MS and C/P sectors in a timely manner could result in additional impacts to Klamath River Chinook salmon if catch of POP approaches the MS or C/P sectors POP allocations and the fleet moves south to prevent a closure prior to their Pacific whiting allocations being harvested. It could also disproportionally disadvantage vessels that fish early in the season because raising the allocation during the season only benefits vessels fishing after the reapportionment. The 2015 West Coast Groundfish Observer Program groundfish mortality report, released over winter, indicated that harvest of POP in the pink shrimp fishery was much lower in 2015 than in 2014 and supports anecdotal information that the impacts of this fishery on rockfish has decreased due to recent gear modifications. Therefore, new information and analyses available to the Council in April indicate that over 7 mt of POP will go unharvested in the incidental open access fishery and could be redistributed per regulations at § 660.60(c)(3)(ii).

It is in the public interest for the MS and C/P sector fishermen to have an opportunity to harvest their limits of Pacific whiting without interruption and without exceeding their POP bycatch limits because the Pacific whiting fishery contributes a large amount of revenue to the coastal communities of Washington and Oregon. This action facilitates fleet dynamics to avoid bycatch of Klamath River Chinook salmon, allows continued harvest of Pacific whiting, and allows harvest as intended by the Council, consistent with the best scientific information available.

OA Sablefish DTL Fisheries North of 36° N. Lat.

At the April 2017 Council meeting, the Council recommended an increase to OA sablefish trip limits be implemented as quickly as possible to allow harvest of sablefish to approach but not exceed the 2017 ACL. There was not sufficient time after that meeting to undergo proposed and final rulemaking

before this action needs to be in effect. Affording the time necessary for prior notice and opportunity for public comment would prevent NMFS from managing the OA sablefish DTL fishery using the best available science to approach, without exceeding, the ACLs for federally managed species in accordance with the PCGFMP and applicable law. These increases to trip limits must be implemented as quickly as possible during the two-month cumulative limit period to allow OA fixed gear fishermen an opportunity to harvest higher limits for sablefish without exceeding the ACL north of 36° N. lat.

It is in the public interest for fishermen to have an opportunity to harvest the sablefish ACL north of 36° N. lat. because the sablefish fishery contributes revenue to the coastal communities of Washington, Oregon, and California. This action, if implemented quickly, is anticipated to allow catch of sablefish through the end of the year to approach but not exceed the ACL, and allows harvest as intended by the Council, consistent with the best scientific information available.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian fisheries.

Dated: May 11, 2017.

Karen H. Abrams,

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

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

■ 2. Tables 1a and 1b to part 660, subpart C, are revised to read as follows:

Table 1a to Part 660, Subpart C – 2017, Specifications of OFL, ABC, ACL, ACT and Fishery Harvest Guidelines (Weights in Metric Tons)

Species	Area	OFL	ABC	ACL a/	Fishery HG b/
BOCACCIO c/	S. of 40°10' N. lat.	2,139	2,044	790	775
COWCOD d/	S. of 40°10' N. lat.	70	63	10	8
DARKBLOTCHED ROCKFISH e/	Coastwide	671	641	641	564
PACIFIC OCEAN PERCH f/	N. of 40°10' N. lat.	964	922	281	232
YELLOWEYE ROCKFISH g/	Coastwide	57	47	20	15
Arrowtooth flounder h/	Coastwide	16,571	13,804	13,804	11,706
Big skate i/	Coastwide	541	494	494	437
Black rockfish j/	California (South of 42° N. lat.)	349	334	334	333
Black rockfish k/	Oregon (Between 46°16' N. lat. and 42° N. lat.)	577	527	527	526
Black rockfish l/	Washington (N. of 46°16' N. lat.)	319	305	305	287
Blackgill rockfish m/	S. of 40°10' N. lat.	NA	NA	NA	NA
Cabezon n/	California (South of 42° N. lat.)	157	150	150	150
Cabezon o/	Oregon (Between 46°16' N. lat. and 42° N. lat.)	49	47	47	47
California scorpionfish p/	S. of 34°27' N. lat.	289	264	150	148
Canary rockfish q/	Coastwide	1,793	1,714	1,714	1,467
Chilipepper r/	S. of 40°10' N. lat.	2,727	2,607	2,607	2,561
Dover sole s/	Coastwide	89,702	85,755	50,000	48,406
English sole t/	Coastwide	10,914	9,964	9,964	9,751
Lingcod u/	N. of 40°10' N. lat.	3,549	3,333	3,333	3,055
Lingcod v/	S. of 40°10' N. lat.	1,502	1,251	1,251	1,242
Longnose skate w/	Coastwide	2,556	2,444	2,000	1,853
Longspine thornyhead x/	Coastwide	4,571	3,808	NA	NA
Longspine thornyhead	N. of 34°27' N. lat.	NA	NA	2,894	2,847
Longspine thornyhead	S. of 34°27' N. lat.	NA	NA	914	911
Pacific cod y/	Coastwide	3,200	2,221	1,600	1,091
Pacific whiting z/	Coastwide	969,840	z/	z/	362,682
Petrale sole aa/	Coastwide	3,280	3,136	3,136	2,895
Sablefish	Coastwide	8,050	7,350	NA	NA
Sablefish bb/	N. of 36° N. lat.	NA	NA	5,252	See Table 1c
Sablefish cc/	S. of 36° N. lat.	NA	NA	1,864	1,859
Shortbelly rockfish dd/	Coastwide	6,950	5,789	500	489
Shortspine thornyhead ee/	Coastwide	3,144	2,619	NA	NA
Shortspine thornyhead	N. of 34°27' N. lat.	NA	NA	1,713	1,654
Shortspine thornyhead	S. of 34°27' N. lat.	NA	NA	906	864
Spiny dogfish ff/	Coastwide	2,514	2,094	2,094	1,756
Splitnose rockfish gg/	S. of 40°10' N. lat.	1,841	1,760	1,760	1,749
Starry flounder hh/	Coastwide	1,847	1,282	1,282	1,272
Widow rockfish ii/	Coastwide	14,130	13,508	13,508	13,290
Yellowtail rockfish jj/	N. of 40°10' N. lat.	6,786	6,196	6,196	5,166
Minor Nearshore Rockfish kk/	N. of 40°10' N. lat.	118	105	105	103
Minor Shelf Rockfish ll/	N. of 40°10' N. lat.	2,303	2,049	2,049	1,965
Minor Slope Rockfish mm/	N. of 40°10' N. lat.	1,897	1,755	1,755	1,690
Minor Nearshore Rockfish nn/	S. of 40°10' N. lat.	1,329	1,166	1,163	1,159
Minor Shelf Rockfish oo/	S. of 40°10' N. lat.	1,917	1,624	1,623	1,576
Minor Slope Rockfish pp/	S. of 40°10' N. lat.	827	718	707	687
Other Flatfish qq/	Coastwide	11,165	8,510	8,510	8,306
Other Fish rr/	Coastwide	537	474	474	474

[a] Annual catch limits (ACLs), annual catch targets (ACTs) and harvest guidelines (HGs) are specified as total catch values.

[b] Fishery harvest guidelines means the harvest guideline or quota after subtracting Pacific Coast treaty Indian tribes allocations and projected catch, projected research catch, deductions for fishing mortality in non-groundfish fisheries, and deductions for EFPs from the ACL or ACT.

[c] Bocaccio. A stock assessment was conducted in 2015 for the bocaccio stock between the U.S.-Mexico border and Cape Blanco. The stock is managed with stock-specific harvest specifications south of 40°10′ N. lat. and within the Minor Shelf Rockfish complex north of 40°10′ N. lat. A historical catch distribution of approximately 7.4 percent was used to apportion the assessed stock to the area north of 40°10′ N. lat. The bocaccio stock was estimated to be at 36.8 percent of its unfished biomass in 2015. The OFL of 2,139 mt is projected in the 2015 stock assessment using an FMSY proxy of F50%. The ABC of 2,044 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) because it is a category 1 stock. The 790 mt ACL is based on the current rebuilding plan with a target year to rebuild of 2022 and an SPR harvest rate of 77.7 percent. 15.4 mt is deducted from the ACL to accommodate the incidental open access fishery (0.8 mt), EFP catch (10 mt) and research catch (4.6 mt), resulting in a fishery HG of 774.6 mt. The California recreational fishery has an HG of 326.1 mt.

[d] Cowcod. A stock assessment for the Conception Area was conducted in 2013 and the stock was estimated to be at 33.9 percent of its unfished biomass in 2013. The Conception Area OFL of 58 mt is projected in the 2013 rebuilding analysis using an FMSY proxy of F50%. The OFL contribution of 12 mt for the unassessed portion of the stock in the Monterey area is based on depletion-based stock reduction analysis. The OFLs for the Monterey and Conception areas were summed to derive the south of 40°10′ N. lat. OFL of 70 mt. The ABC for the area south of 40°10′ N. lat. is 63 mt. The assessed portion of the stock in the Conception Area is considered category 2, with a Conception area contribution to the ABC of 53 mt, which is an 8.7 percent reduction from the Conception area OFL (σ=0.72/P*=0.45). The unassessed portion of the stock in the Monterey area is considered a category 3 stock, with a contribution to the ABC of 10 mt, which is a 16.6 percent reduction from the Monterey area OFL (σ=1.44/P*=0.45). A single ACL of 10 mt is being set for both areas combined. The ACL of 10 mt is based on the rebuilding plan with a target year to rebuild of 2020 and an SPR harvest rate of 82.7 percent, which is equivalent to an exploitation rate (catch over age 11 + biomass) of 0.007. 2 mt is deducted from the ACL to accommodate the incidental open access fishery (less than 0.1 mt), EFP fishing (less than 0.1 mt) and research activity (2 mt), resulting in a fishery HG of 8 mt. Any additional mortality in research activities will be deducted from the ACL. A single ACT of 4 mt is being set for both areas combined.

[e] Darkblotched rockfish. A 2015 stock assessment estimated the stock to be at 39 percent of its unfished biomass in 2015. The OFL of 671 mt is projected in the 2015 stock assessment using an FMSY proxy of F50%. The ABC of 641 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) because it is a category 1 stock. The ACL is set equal to the ABC, as the stock is projected to be above its target biomass of B40% in 2017. 77.3 mt is deducted from the ACL to accommodate the Tribal fishery (0.2 mt), the incidental open access fishery (24.5 mt), EFP catch (0.1 mt), research catch (2.5 mt) and an additional deduction for unforeseen catch events (50 mt), resulting in a fishery HG of 563.8 mt.

[f] Pacific ocean perch. A stock assessment was conducted in 2011 and the stock was estimated to be at 19.1 percent of its unfished biomass in 2011. The OFL of 964 mt for the area north of 40°10′ N. lat. is based on an updated catch-only projection of the 2011 rebuilding analysis using an F50% FMSY proxy. The ABC of 922 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) because it is a category 1 stock. The ACL is based on the current rebuilding plan with a target year to rebuild of 2051 and a constant catch amount of 281 mt in 2017 and 2018, followed in 2019 and beyond by ACLs based on an SPR harvest rate of 86.4 percent. 49.4 mt is deducted from the ACL to accommodate the Tribal fishery (9.2 mt), the incidental open access fishery (10 mt), research catch (5.2 mt) and an additional deduction for unforeseen catch events (25 mt), resulting in a fishery HG of 231.6 mt. Of the 10 mt initially deducted from the ACL to account for mortality in the incidental open access fishery, a total of 7 mt is distributed to the mothership and catcher/processor sectors inseason, 3.5 mt to each sector consistent with § 660.60(c)(3)(ii), resulting in a 3 mt deduction from the ACL for mortality in the incidental open access fishery.

[g] Yelloweye rockfish. A stock assessment update was conducted in 2011. The stock was estimated to be at 21.4 percent of its unfished biomass in 2011. The 57 mt coastwide OFL is based on a catch-only update of the 2011 stock assessment, assuming actual catches since 2011 and using an FMSY proxy of F50%. The ABC of 47 mt is a 16.7 percent reduction from the OFL (σ=0.72/P*=0.40) because it is a category 2 stock. The 20 mt ACL is based on the current rebuilding plan with a target year to rebuild of 2074 and an SPR harvest rate of 76.0 percent. 5.4 mt is deducted from the ACL to accommodate the Tribal fishery (2.3 mt), the incidental open access fishery (0.4 mt), EFP catch (less than 0.1 mt) and research catch (2.7 mt), resulting in a fishery HG of 14.6 mt. Recreational HGs are: 3.3 mt (Washington); 3 mt (Oregon); and 3.9 mt (California).

[h] Arrowtooth flounder. The arrowtooth flounder stock was last assessed in 2007 and was estimated to be at 79 percent of its unfished biomass in 2007. The OFL of 16,571 mt is derived from a catch-only update of the 2007 stock assessment assuming actual catches since 2007 and using an F30% FMSY proxy. The ABC of 13,804 mt is a 16.7 percent reduction from the OFL (σ=0.72/P*=0.40) because it is a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of B25%. 2,098.1 mt is deducted from the ACL to accommodate the Tribal fishery (2,041 mt), the incidental open access fishery (40.8 mt), and research catch (16.4 mt), resulting in a fishery HG of 11,705.9 mt.

[i] Big skate. The OFL of 541 mt is based on an estimate of trawl survey biomass and natural mortality. The ABC of 494 mt is an 8.7 percent reduction from the OFL (σ=0.72/P*=0.45) as it is a category 2 stock. The ACL is set equal to the ABC. 57.4 mt is deducted from the ACL to accommodate the Tribal fishery (15 mt), the incidental open access fishery (38.4 mt), and research catch (4 mt), resulting in a fishery HG of 436.6 mt.

[j] Black rockfish (California). A 2015 stock assessment estimated the stock to be at 33 percent of its unfished biomass in 2015. The OFL of 349 mt is projected in the 2015 stock assessment using an FMSY proxy of F50%. The ABC of 334 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) because it is a category 1 stock. The ACL is set equal to the ABC because the stock is projected to be above its target biomass of B40% in 2017. 1 mt is deducted from the ACL to accommodate EFP catch (1 mt), resulting in a fishery HG of 333 mt.

[k] Black rockfish (Oregon). A 2015 stock assessment estimated the stock to be at 60 percent of its unfished biomass in 2015. The OFL of 577 mt is projected in the 2015 stock assessment using an FMSY proxy of F50%. The ABC of 527 mt is an 8.7 percent reduction from the OFL (σ=0.72/P*=0.45) because it is a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of B40%. 0.6 mt is deducted from the ACL to accommodate the incidental open access fishery (0.6 mt), resulting in a fishery HG of 526.4 mt.

[l] Black rockfish (Washington). A 2015 stock assessment estimated the stock to be at 43 percent of its unfished biomass in 2015. The OFL of 319 mt is projected in the 2015 stock assessment using an FMSY proxy of F50%. The ABC of 305 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) because it is a category 1 stock. The ACL is set equal to the ABC because the stock is above its target biomass of B40%. 18 mt is deducted from the ACL to accommodate the Tribal fishery, resulting in a fishery HG of 287 mt.

[m] Blackgill rockfish. Blackgill rockfish contributes to the harvest specifications for the Minor Slope Rockfish South complex. See footnote pp.

[n] Cabezon (California). A cabezon stock assessment was conducted in 2009. The cabezon spawning biomass in waters off California was estimated to be at 48.3 percent of its unfished biomass in 2009. The OFL of 157 mt is calculated using an FMSY proxy of F45%. The ABC of 150 mt is based on a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) because it is a category 1 stock. The ACL is set equal to the ABC because the stock is above its target biomass of B40%. 0.3 mt is deducted from the ACL to accommodate the incidental open access fishery, resulting in a fishery HG of 149.7 mt.

[o] Cabezon (Oregon). A cabezon stock assessment was conducted in 2009. The cabezon spawning biomass in waters off Oregon was estimated to be at 52 percent of its unfished biomass in 2009. The OFL of 49 mt is calculated using an FMSY proxy of

F45%. The ABC of 47 mt is based on a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) because it is a category 1 species. The ACL is set equal to the ABC because the stock is above its target biomass of B40%. There are no deductions from the ACL so the fishery HG is also equal to the ACL of 47 mt.

[p] California scorpionfish. A California scorpionfish assessment was conducted in 2005 and was estimated to be at 79.8 percent of its unfished biomass in 2005. The OFL of 289 mt is based on projections from a catch-only update of the 2005 assessment assuming actual catches since 2005 and using an FMSY harvest rate proxy of F50%. The ABC of 264 mt is an 8.7 percent reduction from the OFL (σ=0.72/P*=0.45) because it is a category 2 stock. The ACL is set at a constant catch amount of 150 mt. 2.2 mt is deducted from the ACL to accommodate the incidental open access fishery (2 mt) and research catch (0.2 mt), resulting in a fishery HG of 147.8 mt. An ACT of 111 mt is established.

[q] Canary rockfish. A stock assessment was conducted in 2015 and the stock was estimated to be at 55.5 percent of its unfished biomass coastwide in 2015. The coastwide OFL of 1,793 mt is projected in the 2015 assessment using an FMSY harvest rate proxy of F50%. The ABC of 1,714 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) because it is a category 1 stock. The ACL is set equal to the ABC because the stock is above its target biomass of B40%. 247 mt is deducted from the ACL to accommodate the Tribal fishery (50 mt), the incidental open access fishery (1.2 mt), EFP catch (1 mt), research catch (7.2 mt), and an additional deduction for unforeseen catch events (188 mt), resulting in a fishery HG of 1,466.6 mt. Recreational HGs are: 50 mt (Washington); 75 mt (Oregon); and 135 mt (California).

[r] Chilipepper. A coastwide update assessment of the chilipepper stock was conducted in 2015 and estimated to be at 64 percent of its unfished biomass in 2015. Chilipepper are managed with stock-specific harvest specifications south of 40°10′ N. lat. and within the Minor Shelf Rockfish complex north of 40°10′ N. lat. Projected OFLs are stratified north and south of 40°10′ N. lat. based on the average historical assessed area catch, which is 93 percent for the area south of 40°10′ N. lat. and 7 percent for the area north of 40°10′ N. lat. The OFL of 2,727 mt for the area south of 40°10′ N. lat. is projected in the 2015 assessment using an FMSY proxy of F50%. The ABC of 2,607 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) because it is a category 1 stock. The ACL is set equal to the ABC because the stock is above its target biomass of B40%. 45.9 mt is deducted from the ACL to accommodate the incidental open access fishery (5 mt), EFP fishing (30 mt), and research catch (10.9 mt), resulting in a fishery HG of 2,561.1 mt.

[s] Dover sole. A 2011 Dover sole assessment estimated the stock to be at 83.7 percent of its unfished biomass in 2011. The OFL of 89,702 mt is based on an updated catch-only projection from the 2011 stock assessment assuming actual catches since 2011 and using an FMSY proxy of F30%. The ABC of 85,755 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) because it is a category 1 stock. The ACL could be set equal to the ABC because the stock is above its target biomass of B25%. However, the ACL of 50,000 mt is set at a level below the ABC and higher than the maximum historical landed catch. 1,593.7 mt is deducted from the ACL to accommodate the Tribal fishery (1,497 mt), the incidental open access fishery (54.8 mt), and research catch (41.9 mt), resulting in a fishery HG of 48,406.3 mt.

[t] English sole. A 2013 stock assessment was conducted, which estimated the stock to be at 88 percent of its unfished biomass in 2013. The OFL of 10,914 mt is projected in the 2013 assessment using an FMSY proxy of F30%. The ABC of 9,964 mt is an 8.7 percent reduction from the OFL (σ=0.72/P*=0.45) because it is a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of B25%. 212.8 mt is deducted from the ACL to accommodate the Tribal fishery (200 mt), the incidental open access fishery (7.0 mt) and research catch (5.8 mt), resulting in a fishery HG of 9,751.2 mt.

[u] Lingcod north. The 2009 lingcod assessment modeled two populations north and south of the California-Oregon border (42° N. lat.). Both populations were healthy with stock depletion estimated at 62 and 74 percent for the north and south, respectively in 2009. The OFL is based on an updated catch-only projection from the 2009 assessment assuming actual catches since 2009 and using an FMSY proxy of F45%. The OFL is apportioned north of 40°10′ N. lat. by adding 48% of the OFL from California, resulting in an OFL of 3,549 mt for the area north of 40°10′ N. lat. The ABC of 3,333 mt is based on a 4.4 percent reduction (σ=0.36/P*=0.45) from the OFL contribution for the area north of 42° N. lat. because it is a category 1 stock, and an 8.7 percent reduction (σ=0.72/P*=0.45) from the OFL contribution for the area between 42° N. lat. and 40°10′ N. lat. because it is a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of B40%. 278.2 mt is deducted from the ACL for the Tribal fishery (250 mt), the incidental open access fishery (16 mt), EFP catch (0.5 mt) and research catch (11.7 mt), resulting in a fishery HG of 3,054.8 mt.

[v] Lingcod south. The 2009 lingcod assessment modeled two populations north and south of the California-Oregon border (42° N. lat.). Both populations were healthy with stock depletion estimated at 62 and 74 percent for the north and south, respectively in 2009. The OFL is based on an updated catch-only projection of the 2009 stock assessment assuming actual catches since 2009 using an FMSY proxy of F45%. The OFL is apportioned by subtracting 48% of the California OFL, resulting in an OFL of 1,502 mt for the area south of 40°10′ N. lat. The ABC of 1,251 mt is based on a 16.7 percent reduction from the OFL (σ=0.72/P*=0.40) because it is a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of B40%. 9 mt is deducted from the ACL to accommodate the incidental open access fishery (6.9 mt), EFP fishing (1 mt), and research catch (1.1 mt), resulting in a fishery HG of 1,242 mt.

[w] Longnose skate. A stock assessment was conducted in 2007 and the stock was estimated to be at 66 percent of its unfished biomass. The OFL of 2,556 mt is derived from the 2007 stock assessment using an FMSY proxy of F50%. The ABC of 2,444 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) because it is a category 1 stock. The ACL of 2,000 mt is a fixed harvest level that provides greater access to the stock and is less than the ABC. 147 mt is deducted from the ACL to accommodate the Tribal fishery (130 mt), incidental open access fishery (3.8 mt), and research catch (13.2 mt), resulting in a fishery HG of 1,853 mt.

[x] Longspine thornyhead. A 2013 longspine thornyhead coastwide stock assessment estimated the stock to be at 75 percent of its unfished biomass in 2013. A coastwide OFL of 4,571 mt is projected in the 2013 stock assessment using an F50% FMSY proxy. The coastwide ABC of 3,808 mt is a 16.7 percent reduction from the OFL (σ=0.72/P*=0.40) because it is a category 2 stock. For the portion of the stock that is north of 34°27′ N. lat., the ACL is 2,894 mt, and is 76 percent of the coastwide ABC based on the average swept-area biomass estimates (2003–2012) from the NMFS NWFSC trawl survey. 46.8 mt is deducted from the ACL to accommodate the Tribal fishery (30 mt), the incidental open access fishery (3.3 mt), and research catch (13.5 mt), resulting in a fishery HG of 2,847.2 mt. For that portion of the stock south of 34°27′ N. lat. the ACL is 914 mt and is 24 percent of the coastwide ABC based on the average swept-area biomass estimates (2003–2012) from the NMFS NWFSC trawl survey. 3.2 mt is deducted from the ACL to accommodate the incidental open access fishery (1.8 mt), and research catch (1.4 mt), resulting in a fishery HG of 910.8 mt.

[y] Pacific cod. The 3,200 mt OFL is based on the maximum level of historic landings. The ABC of 2,221 mt is a 30.6 percent reduction from the OFL (σ=1.44/P*=0.40) because it is a category 3 stock. The 1,600 mt ACL is the OFL reduced by 50 percent as a precautionary adjustment. 509 mt is deducted from the ACL to accommodate the Tribal fishery (500 mt), research catch (7 mt), and the incidental open access fishery (2 mt), resulting in a fishery HG of 1,091 mt.

[z] Pacific whiting. The coastwide (U.S. and Canada) stock assessment was published in 2017 and estimated the spawning stock to be at 89 percent of its unfished biomass. The 2017 coastwide OFL of 969,840 mt is based on the 2017 assessment with an F40% FMSY proxy. The 2017 coastwide, unadjusted Total Allowable Catch (TAC) of 531,501 mt is based on the 2017 stock assessment and the recommendation by the Joint Management Committee (JMC), based on a precautionary approach. The U.S. TAC is 73.88 percent of the coastwide TAC, or 392,673 mt unadjusted TAC for 2017. 15 percent of each party's unadjusted 2016 TAC (48,760 mt for the U.S.) is added to each party's 2017 unadjusted TAC, resulting in a U.S. adjusted 2017 TAC of 431,433 mt. The 2017 fishery HG for Pacific whiting is 362,682 mt. This amount was determined by deducting from the total U.S. TAC of 431,433 mt, the 77,251 mt tribal allocation, along with 1,500 mt for scientific research catch and fishing mortality in non-groundfish fisheries.

[aa] Petrale sole. A 2015 stock assessment update was conducted, which estimated the stock to be at 31 percent of its unfished biomass in 2015. The OFL of 3,280 mt is projected in the 2015 assessment using an FMSY proxy of F30%. The ABC of 3,136 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) because it is a category 1 stock. The ACL is set equal to the ABC because the stock is above its target biomass of B25%. 240.9 mt is deducted from the ACL to accommodate the Tribal fishery (220 mt), the incidental open access fishery (3.2 mt) and research catch (17.7 mt), resulting in a fishery HG of 2,895.1 mt.

[bb] Sablefish north. A coastwide sablefish stock assessment update was conducted in 2015. The coastwide sablefish biomass was estimated to be at 33 percent of its unfished biomass in 2015. The coastwide OFL of 8,050 mt is projected in the 2015 stock assessment using an FMSY proxy of F45%. The ABC of 7,350 mt is an 8.7 percent reduction from the OFL (σ=0.36/P*=0.40). The 40–10 adjustment is applied to the ABC to derive a coastwide ACL value because the stock is in the precautionary zone. This coastwide ACL value is not specified in regulations. The coastwide ACL value is apportioned north and south of 36° N. lat., using the 2003–2014 average estimated swept area biomass from the NMFS NWFSC trawl survey, with 73.8 percent apportioned north of 36° N. lat. and 26.2 percent apportioned south of 36° N. lat. The northern ACL is 5,252 mt and is reduced by 525 mt for the Tribal allocation (10 percent of the ACL north of 36° N. lat.). The 525 mt Tribal allocation is reduced by 1.5 percent to account for discard mortality. Detailed sablefish allocations are shown in Table 1c.

[cc] Sablefish south. The ACL for the area south of 36° N. lat. is 1,864 mt (26.2 percent of the calculated coastwide ACL value). 5 mt is deducted from the ACL to accommodate the incidental open access fishery (2 mt) and research catch (3 mt), resulting in a fishery HG of 1,859 mt.

[dd] Shortbelly rockfish. A non-quantitative shortbelly rockfish assessment was conducted in 2007. The spawning stock biomass of shortbelly rockfish was estimated to be 67 percent of its unfished biomass in 2005. The OFL of 6,950 mt is based on the estimated MSY in the 2007 stock assessment. The ABC of 5,789 mt is a 16.7 percent reduction of the OFL (σ=0.72/P*=0.40) because it is a category 2 stock. The 500 mt ACL is set to accommodate incidental catch when fishing for co-occurring healthy stocks and in recognition of the stock's importance as a forage species in the California Current ecosystem. 10.9 mt is deducted from the ACL to accommodate the incidental open access fishery (8.9 mt) and research catch (2 mt), resulting in a fishery HG of 489.1 mt.

[ee] Shortspine thornyhead. A 2013 coastwide shortspine thornyhead stock assessment estimated the stock to be at 74.2 percent of its unfished biomass in 2013. A coastwide OFL of 3,144 mt is projected in the 2013 stock assessment using an F50% FMSY proxy. The coastwide ABC of 2,619 mt is a 16.7 percent reduction from the OFL (σ=0.72/P*=0.40) because it is a category 2 stock. For the portion of the stock that is north of 34°27′ N. lat., the ACL is 1,713 mt. The northern ACL is 65.4 percent of the coastwide ABC based on the average swept-area biomass estimates (2003–2012) from the NMFS NWFSC trawl survey. 59 mt is deducted from the ACL to accommodate the Tribal fishery (50 mt), the incidental open access fishery (1.8 mt), and research catch (7.2 mt), resulting in a fishery HG of 1,654 mt for the area north of 34°27′ N. lat. For that portion of the stock south of 34°27′ N. lat. the ACL is 906 mt. The southern ACL is 34.6 percent of the coastwide ABC based on the average swept-area biomass estimates (2003–2012) from the NMFS NWFSC trawl survey. 42.3 mt is deducted from the ACL to accommodate the incidental open access fishery (41.3 mt) and research catch (1 mt), resulting in a fishery HG of 863.7 mt for the area south of 34°27′ N. lat.

[ff] Spiny dogfish. A coastwide spiny dogfish stock assessment was conducted in 2011. The coastwide spiny dogfish biomass was estimated to be at 63 percent of its unfished biomass in 2011. The coastwide OFL of 2,514 mt is derived from the 2011 assessment using an FMSY proxy of F50%. The coastwide ABC of 2,094 mt is a 16.7 percent reduction from the OFL (σ=0.72/P*=0.40) because it is a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of B40%. 338 mt is deducted from the ACL to accommodate the Tribal fishery (275 mt), the incidental open access fishery (49.5 mt), EFP catch (1 mt), and research catch (12.5 mt), resulting in a fishery HG of 1,756 mt.

[gg] Splitnose rockfish. A coastwide splitnose rockfish assessment was conducted in 2009 that estimated the stock to be at 66 percent of its unfished biomass in 2009. Splitnose rockfish in the north is managed in the Minor Slope Rockfish complex and with stock-specific harvest specifications south of 40°10′ N. lat. The coastwide OFL is projected in the 2009 assessment using an FMSY proxy of F50%. The coastwide OFL is apportioned north and south of 40°10′ N. lat. based on the average 1916–2008 assessed area catch, resulting in 64.2 percent of the coastwide OFL apportioned south of 40°10′ N. lat., and 35.8 percent apportioned for the contribution of splitnose rockfish to the northern Minor Slope Rockfish complex. The southern OFL of 1,841 mt results from the apportionment described above. The southern ABC of 1,760 mt is a 4.4 percent reduction from the southern OFL (σ=0.36/P*=0.45) because it is a category 1 stock. The ACL is set equal to the ABC because the stock is estimated to be above its target biomass of B40%. 10.7 mt is deducted from the ACL to accommodate the incidental open access fishery (0.2 mt), research catch (9 mt) and EFP catch (1.5 mt), resulting in a fishery HG of 1,749.3 mt.

[hh] Starry flounder. The stock was assessed in 2005 and was estimated to be above 40 percent of its unfished biomass in 2005 (44 percent in Washington and Oregon, and 62 percent in California). The coastwide OFL of 1,847 mt is set equal to the 2016 OFL, which was derived from the 2005 assessment using an FMSY proxy of F30%. The ABC of 1,282 mt is a 30.6 percent reduction from the OFL (σ=1.44/P*=0.40) because it is a category 3 stock. The ACL is set equal to the ABC because the stock was estimated to be above its target biomass of B25% in 2017. 10.3 mt is deducted from the ACL to accommodate the Tribal fishery (2 mt), and the incidental open access fishery (8.3 mt), resulting in a fishery HG of 1,271.7 mt.

[ii] Widow rockfish. The widow rockfish stock was assessed in 2015 and was estimated to be at 75 percent of its unfished biomass in 2015. The OFL of 14,130 mt is projected in the 2015 stock assessment using the F50% FMSY proxy. The ABC of 13,508 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) because it is a category 1 stock. The ACL is set equal to the ABC because the stock is above its target biomass of B40%. 217.7 mt is deducted from the ACL to accommodate the Tribal fishery (200 mt), the incidental open access fishery (0.5 mt), EFP catch (9 mt) and research catch (8.2 mt), resulting in a fishery HG of 13,290.3 mt.

[jj] Yellowtail rockfish. A 2013 yellowtail rockfish stock assessment was conducted for the portion of the population north of 40°10′ N. lat. The estimated stock depletion was 67 percent of its unfished biomass in 2013. The OFL of 6,786 mt is projected in the 2013 stock assessment using an FMSY proxy of F50%. The ABC of 6,196 mt is an 8.7 percent reduction from the OFL (σ=0.72/P*=0.45) because it is a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of B40%. 1,030 mt is deducted from the ACL to accommodate the Tribal fishery (1,000 mt), the incidental open access fishery (3.4 mt), EFP catch (10 mt) and research catch (16.6 mt), resulting in a fishery HG of 5,166.1 mt.

[kk] Minor Nearshore Rockfish north. The OFL for Minor Nearshore Rockfish north of 40°10′ N. lat. of 118 mt is the sum of the OFL contributions for the component species managed in the complex. The ABCs for the minor rockfish complexes are based on a sigma value of 0.72 for category 2 stocks (blue/deacon rockfish in California, brown rockfish, China rockfish, and copper rockfish) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 105 mt is the summed contribution of the ABCs for the component species. The ACL of 105 mt is the sum of contributing ABCs of healthy assessed stocks and unassessed stocks, plus the ACL contributions for blue/deacon rockfish in California where the 40–10 adjustment was applied to the ABC contribution for this stock because it is in the precautionary zone. 1.8 mt is deducted from the ACL to accommodate the Tribal fishery (1.5 mt) and the incidental open access fishery (0.3 mt), resulting in a fishery HG of 103.2 mt. Between 40°10′ N. lat. and 42° N. lat. the Minor Nearshore Rockfish complex north has a harvest guideline of 40.2 mt. Blue/deacon rockfish south of 42° N. lat. has a stock-specific HG, described in footnote nn.

[ll] Minor Shelf Rockfish north. The OFL for Minor Shelf Rockfish north of 40°10′ N. lat. of 2,303 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the minor rockfish complexes are based on a sigma value of 0.36 for a category 1 stock (chilipepper), a sigma value of 0.72 for category 2 stocks (greenspotted rockfish

between 40°10′ and 42° N. lat. and greenstriped rockfish), and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 2,049 mt is the summed contribution of the ABCs for the component species. The ACL of 2,049 mt is the sum of contributing ABCs of healthy assessed stocks and unassessed stocks, plus the ACL contribution of greenspotted rockfish in California where the 40–10 adjustment was applied to the ABC contribution for this stock because it is in the precautionary zone. 83.8 mt is deducted from the ACL to accommodate the Tribal fishery (30 mt), the incidental open access fishery (26 mt), EFP catch (3 mt), and research catch (24.8 mt), resulting in a fishery HG of 1,965.2 mt.

[mm] Minor Slope Rockfish north. The OFL for Minor Slope Rockfish north of 40°10′ N. lat. of 1,897 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the Minor Slope Rockfish complexes are based on a sigma value of 0.39 for aurora rockfish, a sigma value of 0.36 for the other category 1 stock (splitnose rockfish), a sigma value of 0.72 for category 2 stocks (rougheye rockfish, blackspotted rockfish, and sharpchin rockfish), and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. A unique sigma of 0.39 was calculated for aurora rockfish because the variance in estimated spawning biomass was greater than the 0.36 used as a proxy for other category 1 stocks. The resulting ABC of 1,755 mt is the summed contribution of the ABCs for the component species. The ACL is set equal to the ABC because all the assessed component stocks (*i.e.,* rougheye rockfish, blackspotted rockfish, sharpchin rockfish, and splitnose rockfish) are above the target biomass of B40%. 65.1 mt is deducted from the ACL to accommodate the Tribal fishery (36 mt), the incidental open access fishery (18.6 mt), EFP catch (1 mt), and research catch (9.5 mt), resulting in a fishery HG of 1,689.9 mt.

[nn] Minor Nearshore Rockfish south. The OFL for the Minor Nearshore Rockfish complex south of 40°10′ N. lat. of 1,329 mt is the sum of the OFL contributions for the component species within the complex. The ABC for the southern Minor Nearshore Rockfish complex is based on a sigma value of 0.72 for category 2 stocks (*i.e.,* blue/deacon rockfish north of 34°27′ N. lat., brown rockfish, China rockfish, and copper rockfish) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 1,166 mt is the summed contribution of the ABCs for the component species. The ACL of 1,163 mt is the sum of the contributing ABCs of healthy assessed stocks and unassessed stocks, plus the ACL contribution for blue/deacon rockfish north of 34°27′ N. lat. and China rockfish where the 40–10 adjustment was applied to the ABC contributions for these two stocks because they are in the precautionary zone. 4.1 mt is deducted from the ACL to accommodate the incidental open access fishery (1.4 mt) and research catch (2.7 mt), resulting in a fishery HG of 1,158.9 mt. Blue/deacon rockfish south of 42° N. lat. has a stock-specific HG set equal to the 40–10-adjusted ACL for the portion of the stock north of 34°27′ N lat. (243.7 mt) plus the ABC contribution for the unassessed portion of the stock south of 34°27′ N. lat. (60.8 mt). The California (*i.e.* south of 42° N. lat.) blue/deacon rockfish HG is 304.5 mt.

[oo] Minor Shelf Rockfish south. The OFL for the Minor Shelf Rockfish complex south of 40°10′ N. lat. of 1,917 mt is the sum of the OFL contributions for the component species within the complex. The ABC for the southern Minor Shelf Rockfish complex is based on a sigma value of 0.72 for category 2 stocks (greenspotted and greenstriped rockfish) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 1,624 mt is the summed contribution of the ABCs for the component species. The ACL of 1,623 mt is the sum of contributing ABCs of healthy assessed stocks and unassessed stocks, plus the ACL contribution of greenspotted rockfish in California where the 40–10 adjustment was applied to the ABC contribution for this stock because it is in the precautionary zone. 47.2 mt is deducted from the ACL to accommodate the incidental open access fishery (8.6 mt), EFP catch (30 mt), and research catch (8.6 mt), resulting in a fishery HG of 1,575.8 mt.

[pp] Minor Slope Rockfish south. The OFL of 827 mt is the sum of the OFL contributions for the component species within the complex. The ABC for the southern Minor Slope Rockfish complex is based on a sigma value of 0.39 for aurora rockfish, a sigma value of 0.72 for category 2 stocks (blackgill rockfish, rougheye rockfish, blackspotted rockfish, and sharpchin rockfish) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. A unique sigma of 0.39 was calculated for aurora rockfish because the variance in estimated biomass was greater than the 0.36 used as a proxy for other category 1 stocks. The resulting ABC of 718 mt is the summed contribution of the ABCs for the component species. The ACL of 707 mt is the sum of the contributing ABCs of healthy assessed stocks and unassessed stocks, plus the ACL contribution of blackgill rockfish where the 40–10 adjustment was applied to the ABC contribution for this stock because it is in the precautionary zone. 20.2 mt is deducted from the ACL to accommodate the incidental open access fishery (17.2 mt), EFP catch (1 mt), and research catch (2 mt), resulting in a fishery HG of 686.8 mt. Blackgill rockfish has a stock-specific HG for the entire groundfish fishery south of 40°10′ N lat. set equal to the species' contribution to the 40–10-adjusted ACL. Harvest of blackgill rockfish in all groundfish fisheries counts against this HG of 120.2 mt. Nontrawl fisheries are subject to a blackgill rockfish HG of 44.5 mt.

[qq] Other Flatfish. The Other Flatfish complex is comprised of flatfish species managed in the PCGFMP that are not managed with stock-specific OFLs/ABCs/ACLs. Most of the species in the Other Flatfish complex are unassessed and include: Butter sole, curlfin sole, flathead sole, Pacific sanddab, rock sole, sand sole, and rex sole. The Other Flatfish OFL of 11,165 mt is based on the sum of the OFL contributions of the component stocks. The ABC of 8,510 mt is based on a sigma value of 0.72 for a category 2 stock (rex sole) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.40. The ACL is set equal to the ABC. The ACL is set equal to the ABC because all of the assessed stocks (*i.e.,* Pacific sanddabs and rex sole) were above their target biomass of B25%. 204 mt is deducted from the ACL to accommodate the Tribal fishery (60 mt), the incidental open access fishery (125 mt), and research catch (19 mt), resulting in a fishery HG of 8,306 mt.

[rr] Other Fish. The Other Fish complex is comprised of kelp greenling coastwide, cabezon off Washington, and leopard shark coastwide. The 2015 assessment for the kelp greenling stock off of Oregon projected an estimated depletion of 80 percent in 2015. All other stocks are unassessed. The OFL of 537 mt is the sum of the OFL contributions for kelp greenling coastwide, cabezon off Washington, and leopard shark coastwide. The ABC for the Other Fish complex is based on a sigma value of 0.44 for kelp greenling off Oregon and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. A unique sigma of 0.44 was calculated for kelp greenling off Oregon because the variance in estimated spawning biomass was greater than the 0.36 sigma used as a proxy for other category 1 stocks. The resulting ABC of 474 mt is the summed contribution of the ABCs for the component species. The ACL is set equal to the ABC because all of the assessed stocks (kelp greenling off Oregon) were above their target biomass of B40%. There are no deductions from the ACL so the fishery HG is equal to the ACL of 474 mt.

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Table 1b to Part 660, Subpart C –2017, Allocations by Species or Species Group (Weight in Metric Tons)

Species	Area	Fishery HG or ACT	Trawl		Non-trawl	
			Percent	Mt	Percent	Mt
BOCACCIO a/	S. of 40°10' N. lat.	774.6	39	302.4	61	472.2
COWCOD a/b/	S. of 40°10' N. lat.	4.0	36	1.4	64	2.6
DARKBLOTCHED ROCKFISH c/	Coastwide	563.8	95	535.6	5	28.2
PACIFIC OCEAN PERCH e/	N. of 40°10' N. lat.	231.6	95	220.0	5	11.6
YELLOWEYE ROCKFISH a/	Coastwide	14.6	NA	1.1	NA	13.1
Arrowtooth flounder	Coastwide	11,705.9	95	11,120.6	5	585.3
Big skate a/	Coastwide	436.6	95	414.8	5	21.8
Canary rockfish a/d/	Coastwide	1,466.6	NA	1,060.1	NA	406.5
Chilipepper	S. of 40°10' N. lat.	2,561.1	75	1,920.8	25	640.3
Dover sole	Coastwide	48,406.3	95	45,986.0	5	2,420.3
English sole	Coastwide	9,751.2	95	9,263.6	5	487.6
Lingcod	N. of 40°10' N. lat.	3,054.8	45	1,374.7	55	1,680.2
Lingcod	S. of 40°10' N. lat.	1,242.0	45	558.9	55	683.1
Longnose skate a/	Coastwide	1,853.0	90	1,667.7	10	185.3
Longspine thornyhead	N. of 34°27' N. lat.	2,847.2	95	2,704.8	5	142.4
Pacific cod	Coastwide	1,091.0	95	1,036.4	5	54.5
Pacific whiting f/	Coastwide	362,682.0	100	362,682.0	0	0.0
Petrale sole	Coastwide	2,895.1	95	2,750.3	5	144.8
Sablefish	N. of 36° N. lat.	N/A	See Table 1c			
Sablefish	S. of 36° N. lat.	1,859.0	42	780.8	58	1,078.2
Shortspine thornyhead	N. of 34°27' N. lat.	1,654.0	95	1,571.3	5	82.7
Shortspine thornyhead	S. of 34°27' N. lat.	863.7	NA	50.0	NA	813.7
Splitnose rockfish	S. of 40°10' N. lat.	1,749.3	95	1,661.8	5	87.5
Stary flounder	Coastwide	1,271.7	50	635.9	50	635.9
Widow rockfish g/	Coastwide	13,290.3	91	12,094.2	9	1,196.1
Yellowtail rockfish	N. of 40°10' N. lat.	5,166.1	88	4,546.1	12	619.9
Minor Shelf Rockfish a/	N. of 40°10' N. lat.	1,965.2	60	1,183.1	40	782.1
Minor Slope Rockfish	N. of 40°10' N. lat.	1,689.9	81	1,368.8	19	321.1
Minor Shelf Rockfish a/	S. of 40°10' N. lat.	1,575.8	12	192.2	88	1,383.6
Minor Slope Rockfish	S. of 40°10' N. lat.	686.8	63	432.7	37	254.1
Other Flatfish	Coastwide	8,306.0	90	7,475.4	10	830.6

a/ Allocations decided through the biennial specification process.

b/ The cowcod fishery harvest guideline is further reduced to an ACT of 4.0 mt.

c/ Consistent with regulations at §660.55(c), 9 percent (48.2 mt) of the total trawl allocation for darkblotched rockfish is allocated to the Pacific whiting fishery, as follows: 20.2 mt for the Shorebased IFQ Program, 11.6 mt for the MS sector, and 16.4 mt for the C/P sector. The tonnage calculated here for the Pacific whiting IFQ fishery contributes to the total shorebased trawl allocation, which is found at §660.140(d)(1)(ii)(D).

d/ Canary rockfish is allocated approximately 72 percent to trawl and 28 percent to non-trawl. 46 mt of the total trawl allocation of canary rockfish is allocated to the MS and C/P sectors, as follows: 30 mt for the MS sector, and 16 mt for the C/P sector.

e/ Consistent with regulations at §660.55(c), 17 percent (37.4 mt) of the total trawl allocation for POP is allocated to the Pacific whiting fishery, as follows: 15.7 mt for the Shorebased IFQ Program, 9.0 mt for the MS sector, and 12.7 mt for the C/P sector. The amounts available to the mothership and catcher/processor fisheries were raised by 3.5 mt, to 12.5 mt for the mothership fishery and to 16.2 mt for the catcher/processor fishery, by distributing 7.0 mt of the 10 mt inititally deducted from the ACL to account for mortality in the incidental open access fishery, consistent with §660.60(c)(3)(ii). The tonnage calculated here for the Pacific whiting IFQ fishery contributes to the total shorebased trawl allocation, which is found at §660.140(d)(1)(ii)(D).

f/ Consistent with regulations at §660.55(f), the commercial harvest guideline for Pacific whiting is allocated as follows: 34 percent (123,312 mt) for the C/P Coop Program; 24 percent (87,044 mt) for the MS Coop Program; and 42 percent (152,326.5 mt) for the Shorebased IFQ Program. No more than 5 percent of the Shore based IFQ Program allocation (7,616 mt) may be taken and retained south of 42° N. lat. before the start of the primary Pacific whiting season north of 42° N. lat.

g/ Consistent with regulations at §660.55(c), 10 percent (1,209.4 mt) of the total trawl allocation for widow rockfish is allocated to the whiting fisheries, as follows: 508.0 mt for the shorebased IFQ fishery, 290.3 mt for the mothership fishery, and 411.2 mt for the catcher/processor fishery. The tonnage calculated here for the whiting portion of the shorebased IFQ fishery contributes to the total shorebased trawl allocation, which is found at §660.140(d)(1)(ii)(D).

* * * * *

■ 3. Tables 3 (North) and 3 (South) to part 660, subpart F, are revised to read as follows:

Table 3 (North) to Part 660, Subpart F -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Open Access Gears North of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table

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		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:						
1	North of 46°16' N. lat.	shoreline - 100 fm line[1/]					
2	46°16' N. lat. - 42°00' N. lat.	30 fm line[1/] - 100 fm line[1/]					
3	42°00' N. lat. - 40°10' N. lat.	30 fm line[1/] - 100 fm line[1/]					
	See §§660.60, 660.330 and 660.333 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).						
	State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.						
4	**Minor Slope Rockfish[2/] & Darkblotched rockfish**	Per trip, no more than 25% of weight of the sablefish landed					
5	**Pacific ocean perch**	100 lb/ month					
6	**Sablefish**	300 lb/ day, or 1 landing per week of up to 1,000 lb, not to exceed 2,000 lb/ 2 months	300 lb/day, or 1 landing per week of up to 900 lb, not to exceed 1,800 lb/ 2 months	300 lb/ day, or 1 landing per week of up to 1,000 lb, not to exceed 2,000 lb/ 2 months			
7	**Shortpine thornyheads and longspine thornyheads**	CLOSED					
8 9 10 11 12 13	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**	3,000 lb/ month, no more than 300 lb of which may be species other than Pacific sanddabs.					
		South of 42° N. lat., when fishing for "Other Flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs.					
14	**Whiting**	300 lb/ month					
15	**Minor Shelf Rockfish[2/], Shortbelly rockfish, & Widow rockfish**	200 lb/ month					
16	**Yellowtail rockfish**	500 lb/ month					
17	**Canary rockfish**	150 lb/ 2 months					
18	**Yelloweye rockfish**	CLOSED					
19	**Minor Nearshore Rockfish & Black rockfish**						
20	North of 42°00' N. lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish					
21	42°00' N. lat. - 40°10' N. lat.	8,500 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish	7,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish				
22	**Lingcod[5/]**	100 lb/ month		600 lb/ month			100 lb/ month
23	**Pacific cod**	1,000 lb/ 2 months					
24	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
25	**Longnose skate**	Unlimited					
26	**Other Fish[6/] & Cabezon in Oregon and California**	Unlimited					
27	**SALMON TROLL** *(subject to RCAs when retaining all species of groundfish, except for yellowtail rockfish and lingcod, as described below)*						
28	North	Salmon trollers may retain and land up to 1 lb of yellowtail rockfish for every 2 lbs of salmon landed, with a cumulative limit of 200 lb/month, both within and outside of the RCA. This limit is within the 200 lb per month combined limit for minor shelf rockfish, widow rockfish and yellowtail rockfish, and not in addition to that limit. Salmon trollers may retain and land up to 1 lingcod per 15 Chinook per trip, plus 1 lingcod per trip, up to a trip limit of 10 lingcod, on a trip where any fishing occurs within the RCA. This limit only applies during times when lingcod retention is allowed, and is not "CLOSED." This limit is within the per month limit for lingcod described in the table above, and not in addition to that limit. All groundfish species are subject to the open access limits, seasons, size limits and RCA restrictions listed in the table above, unless otherwise stated here.					

TABLE 3 (North)

Table 3 (North). Continued

29	**PINK SHRIMP NON-GROUNDFISH TRAWL** *(not subject to RCAs)*		
30	North	**Effective April 1 - October 31:** Groundfish: 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/month (minimum 24 inch size limit); sablefish 2,000 lb/month; canary, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of these species count toward the per day and per trip groundfish limits and do not have species-specific limits. The amount of groundfish landed may not exceed the amount of pink shrimp landed.	

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ Bocaccio, chilipepper and cowcod rockfishes are included in the trip limits for Minor Shelf Rockfish. Splitnose rockfish is included in the trip limits for Minor Slope Rockfish.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ For black rockfish north of Cape Alava (48°09.50' N. lat.), and between Destruction Is. (47°40' N. lat.) and Leadbetter Pnt. (46°38.17' N. lat.), there is an additional limit of 100 lbs or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

5/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N. lat. and 24 inches (61 cm) total length South of 42° N. lat.

6/ "Other fish" are defined at § 660.11 and include kelp greenling, leopard shark, and cabezon in Washington.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 3 (South) to Part 660, Subpart F -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Open Access Gears South of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table

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			JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:							
1	40°10' N. lat. - 34°27' N. lat.		30 fm line[1/] - 125 fm line[1/]					
2	South of 34°27' N. lat.		75 fm line[1/] - 150 fm line[1/](also applies around islands)					
	See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).							
	State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.							
3	**Minor Slope Rockfish[2/] & Darkblotched rockfish**		10,000 lb/ 2 months, of which no more than 475 lb may be blackgill rockfish			10,000 lb/ 2 months, of which no more than 550 lb may be blackgill rockfish		
4	**Splitnose rockfish**		200 lb/ month					
5	**Sablefish**							
6		40°10' N. lat. - 36°00' N. lat.	300 lb/ day, or 1 landing per week of up to 1,000 lb, not to exceed 2,000 lb/ 2 months	300 lb/day, or 1 landing per week of up to 900 lb, not to exceed 1,800 lb/ 2 months	300 lb/ day, or 1 landing per week of up to 1,000 lb, not to exceed 2,000 lb/ 2 months			
7		South of 36°00' N. lat.	300 lb/ day, or 1 landing per week of up to 1,600 lb, not to exceed 3,200 lb/ 2 months					
8	**Shortpine thornyheads and longspine thornyheads**							
9		40°10' N. lat. - 34°27' N. lat.	CLOSED					
10		South of 34°27' N. lat.	50 lb/ day, no more than 1,000 lb/ 2 months					
11 12 13 14 15 16	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**		3,000 lb/ month, no more than 300 lb of which may be species other than Pacific sanddabs. South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs.					
17	**Whiting**		300 lb/ month					
18	**Minor Shelf Rockfish[2/], Shortbelly, Widow rockfish and Chilipepper**							
19		40°10' N. lat. - 34°27' N. lat.	400 lb/ 2 months	CLOSED	400 lb/ 2 months			
20		South of 34°27' N. lat.	1,500 lb/ 2 months		1,500 lb/ 2 months			
21	**Canary rockfish**		150 lb/ 2 months					
22	**Yelloweye rockfish**		CLOSED					
23	**Cowcod**		CLOSED					
24	**Bronzespotted rockfish**		CLOSED					
25	**Bocaccio**		500 lb/ 2 months	CLOSED	500 lb/ 2 months			
26	**Minor Nearshore Rockfish & Black rockfish**							
27	Shallow nearshore		1,200 lb/ 2 months	CLOSED	1,200 lb/ 2 months			
28	Deeper nearshore		1,000 lb/ 2 months	CLOSED	1,000 lb/ 2 months			
29	California scorpionfish		1,500 lb/ 2 months	CLOSED	1,500 lb/ 2 months			
30	**Lingcod[4/]**		100 lb/ month	CLOSED	400 lb/ month			100 lb/ month
31	**Pacific cod**		1,000 lb/ 2 months					
32	**Spiny dogfish**		200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
33	**Longnose skate**		Unlimited					
34	**Other Fish[5/] & Cabezon**		Unlimited					

TABLE 3 (South)

Table 3 (South). Continued

TABLE 3 (South) cont'd

			JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
35	**RIDGEBACK PRAWN AND, SOUTH OF 38°57.50' N. LAT., CA HALIBUT AND SEA CUCUMBER NON-GROUNDFISH TRAWL**							
36	**NON-GROUNDFISH TRAWL Rockfish Conservation Area (RCA) for CA Halibut, Sea Cucumber & Ridgeback Prawn:**							
37		*40° 10' N. lat. - 38° 00' N. lat.*	*100 fm line 1/ - 200 fm line 1/*	*100 fm line 1/ - 150 fm line 1/*				*100 fm line 1/ - 200 fm line 1/*
38		*38° 00' N. lat. - 34° 27' N. lat.*	*100 fm line 1/ - 150 fm line 1/*					
37		*South of 34° 27' N. lat.*	*100 fm line 1/ - 150 fm line 1/ along the mainland coast; shoreline - 150 fm line 1/ around islands*					
39			Groundfish: 300 lb/trip. Species-specific limits described in the table above also apply and are counted toward the 300 lb groundfish per trip limit. The amount of groundfish landed may not exceed the amount of the target species landed, except that the amount of spiny dogfish landed may exceed the amount of target species landed. Spiny dogfish are limited by the 300 lb/trip overall groundfish limit. The daily trip limits for sablefish coastwide and thornyheads south of Pt. Conception and the overall groundfish "per trip" limit may not be multiplied by the number of days of the trip. Vessels participating in the California halibut fishery south of 38°57.50' N. lat. are allowed to (1) land up to 100 lb/day of groundfish without the ratio requirement, provided that at least one California halibut is landed and (2) land up to 3,000 lb/month of flatfish, no more than 300 lb of which may be species other than Pacific sanddabs, sand sole, starry flounder, rock sole, curlfin sole, or California scorpionfish (California scorpionfish is also subject to the trip limits and closures in line 31).					
40	**PINK SHRIMP NON-GROUNDFISH TRAWL GEAR** *(not subject to RCAs)*							
41		South	Effective April 1 - October 31: Groundfish: 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/ month (minimum 24 inch size limit); sablefish 2,000 lb/ month; canary rockfish, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of all groundfish species count toward the per day, per trip or other species-specific sublimits described here and the species-specific limits described in the table above do not apply. The amount of groundfish landed may not exceed the amount of pink shrimp landed.					

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ POP is included in the trip limits for minor slope rockfish. Blackgill rockfish have a species specific trip sub-limit within the minor slope rockfish cumulative limits. Yellowtail rockfish is included in the trip limits for minor shelf rockfish. Bronzespotted rockfish have a species specific trip limit.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ The commercial mimimum size limit for lingcod is 24 inches (61 cm) total length South of 42° N. lat.

5/ "Other fish" are defined at § 660.11 and includes kelp greenling, leopard shark, and cabezon in Washington.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

[FR Doc. 2017–09877 Filed 5–12–17; 4:15 pm]
BILLING CODE 3510–22–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 160920866–7167–02]

RIN 0648–XF418

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

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

ACTION: Temporary rule; opening.

SUMMARY: NMFS is opening directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary to fully use the 2017 groundfish total allowable catch specified for the species comprising the deep-water species category in the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), May 15, 2017, through 1200 hours, A.l.t., July 1, 2017.

Comments must be received at the following address no later than 4:30 p.m., A.l.t., May 31, 2017.

ADDRESSES: You may submit comments on this document, identified by FDMS Docket Number NOAA–NMFS–2016–0127 by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0127,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone

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

NMFS prohibited directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the GOA, effective 1200 hours, A.l.t., April 13, 2017 (82 FR 18252; April 18, 2017) under § 679.21(d)(6)(i). That action was necessary because the second seasonal apportionment of the Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA was reached. The species and species groups that comprise the deep-water species fishery include sablefish, rockfish, deep-water flatfish, rex sole, and arrowtooth flounder.

Regulations at § 679.21(d)(4)(iii)(D) require NMFS to combine management of the available trawl halibut PSC limits in the second season (April 1 through July 1) deep-water and shallow-water species fishery categories for use in either fishery from May 15 through June 30 of each year. The combined second seasonal apportionment of Pacific halibut PSC is 810 metric tons (mt). This includes the deep-water and shallow water Pacific halibut PSC limits carried forward from the first seasonal apportionments (January 20 through April 1). The deep-water and shallow-water Pacific halibut PSC apportionments were established by the final 2017 and 2018 harvest specifications for groundfish of the GOA (82 FR 12032; February 27, 2017).

As of May 11, 2017, NMFS has determined that there is approximately 337 mt of the trawl Pacific halibut PSC limit remaining in the deep-water fishery and shallow-water fishery seasonal apportionments. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the 2017 groundfish total allowable catch available in the deep-water species fishery category NMFS is terminating the previous closure and is reopening directed fishing for species comprising the deep-water fishery category in the GOA. The Administrator, Alaska Region (Regional Administrator) considered the following factors in reaching this decision: (1) The current harvest of Pacific halibut PSC in the deep-water species trawl fishery the of the GOA and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery.

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 opening of directed fishing for species comprising the deep-water species fishery category in the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of May 11, 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.

Without this inseason adjustment, NMFS could not allow the trawl deep-water species fishery in the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until May 31, 2017.

This action is required by § 679.21 and § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: May 12, 2017.

Karen H. Abrams,

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

[FR Doc. 2017–09995 Filed 5–15–17; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 82, No. 93
Tuesday, May 16, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0337; Directorate Identifier 2017–NM–006–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 767 airplanes. This proposed AD was prompted by a report of cracking of the vertical stiffener in the nose wheel well. This proposed AD would require repetitive inspections of the nose wheel well bulkhead stiffener for any cracking, and corrective actions if necessary. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by June 30, 2017.

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

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

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0337.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0337; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6447; fax: 425–917–6590; email: *wayne.lockett@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2017–0337; Directorate Identifier 2017–NM–006–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We have received a report of cracking of the vertical stiffener in the nose wheel well. The stiffener was made of 7075–T73511 material. This condition, if not corrected, could adversely affect the structural integrity of the airplane and possibly lead to cabin depressurization or a nose landing gear collapse.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 767–53A0275, dated January 5, 2017. The service information describes procedures for a detailed inspection and a medium frequency eddy current inspection of the nose wheel well bulkhead stiffener for any cracking, and corrective actions if necessary. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between This Proposed AD and the Service Information.'' For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0337.

The phrase ''corrective actions'' is used in this proposed AD. Corrective actions correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

Differences Between This Proposed AD and the Service Information

Boeing Alert Service Bulletin 767–53A0275, dated January 5, 2017, specifies to contact the manufacturer for certain instructions, but this proposed

AD would require using repair methods, modification deviations, and alteration deviations in one of the following ways:

- In accordance with a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) whom we have authorized to make those findings.

Costs of Compliance

We estimate that this proposed AD affects 144 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	10 work-hour × $85 per hour = $850 per inspection cycle.	$0	$850 per inspection cycle	$122,400 per inspection cycle.

We estimate the following costs to do certain repairs that would be required based on the results of the proposed inspection. We have no way of determining the number of aircraft that might need this repair:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Repair	18 work-hour × $85 per hour = $1,530	$0	$1,530

We have received no definitive data that would enable us to provide cost estimates for other repairs specified in this proposed AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2017–0337; Directorate Identifier 2017–NM–006–AD.

(a) Comments Due Date

We must receive comments by June 30, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 767–200, –300, –300F, and –400ER series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 767–53A0275, dated January 5, 2017.

(d) Subject

Air Transport Association (ATA) of America Code 53; Fuselage.

(e) Unsafe Condition

This AD was prompted by a report of cracking in the vertical stiffener at the nose wheel well. We are issuing this AD to detect and correct any cracking, which could adversely affect the structural integrity of the airplane and possibly lead to cabin depressurization or a nose landing gear collapse.

(f) Compliance

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

(g) Inspection

At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 767–53A0275, dated January 5, 2017; except as specified in paragraph (h)(1) of this AD: Do a detailed inspection and a medium frequency eddy current inspection of the nose wheel well bulkhead stiffener for any cracking, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 767–53A0275, dated January 5, 2017; except as specified in paragraph (h)(2) of this AD. Do all corrective actions before further flight. Repeat the inspections, thereafter, at the times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service

Bulletin 767–53A0275, dated January 5, 2017.

(h) Exceptions to the Service Information

(1) Where Boeing Alert Service Bulletin 767–53A0275, dated January 5, 2017, specifies a compliance time ''after the original issue date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) If any cracking is found and Boeing Alert Service Bulletin 767–53A0275, dated January 5, 2017, specifies to contact Boeing for appropriate action and specifies that action as ''RC'' (Required for Compliance): Before further flight repair using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (j)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) Except as required by paragraph (h)(2) of this AD: For service information that contains steps that are labeled as RC, the provisions of paragraphs (i)(4)(i) and (i)(4)(ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. If a step or substep is labeled ''RC Exempt,'' then the RC requirement is removed from that step or substep. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(j) Related Information

(1) For more information about this AD, contact Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM 120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6447; fax: 425–917–6590; email: *wayne.lockett@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on May 8, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–09847 Filed 5–15–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0339; Directorate Identifier 2016–NM–078–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2014–13–17, for all Airbus Model A300 series airplanes; Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes); and Airbus Model A310 series airplanes. AD 2014–13–17 currently requires repetitive functional tests of the circuit breakers for the fuel pump power supply, and replacement of certain circuit breakers. Since we issued AD 2014–13–17, we have determined that installation of a newly developed fuel pump standard will better address the unsafe condition. This proposed AD would require installation of fuel pumps having the new standard, which would terminate the repetitive functional tests. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by June 30, 2017.

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

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

For service information identified in this NPRM, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0339; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES**

section. Include ''Docket No. FAA–2017–0339; Directorate Identifier 2016–NM–078–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

On June 25, 2014, we issued AD 2014–13–17, Amendment 39–17893 (79 FR 41098, July 15, 2014) (''AD 2014–13–17''). AD 2014–13–17 requires actions intended to address an unsafe condition on all Airbus Model A300 series airplanes; Model A300–600 series airplanes; and Airbus Model A310 series airplanes.

Since we issued AD 2014–13–17, a new fuel pump standard was developed that has improved thermal protection. This improved thermal protection prevents a fuel pump from overheating, and possibly resulting in a fuel tank explosion and loss of the airplane. We have determined that installation of the fuel pump standard will better address the unsafe condition than the currently required repetitive functional tests.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2016–0080, dated April 21, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model A300 series airplanes; Model A300–600 series airplanes; and Airbus Model A310 series airplanes. The MCAI states:

> Two successive failures have been reported of a Right Hand # 1 inner tank fuel pump, Part Number (P/N) 2052Cxx series (where ''xx'' represents any numerical combination). These occurrences were solved by replacement of the pump, associated circuit breaker (CB) and the alternating current (AC) bus load relay.
>
> Investigations determined that, in case of loss of one phase on the pump supply and the associated CB failing to trip, the fuel pump thermal fuses may not operate as quickly as expected.
>
> This condition, if not detected and corrected, could lead to an overheat condition of the fuel pump in excess of 200°C, possibly resulting in a fuel tank explosion and loss of the aeroplane.
>
> To address this potential unsafe condition, Airbus issued Alert Operator Transmission (AOT) A28W002–13 providing instructions for functional tests of CBs.
>
> As a temporary measure, EASA issued AD 2013–0163 [which corresponds to FAA AD 2014–13–17] to require repetitive functional tests of the affected fuel pump power supply CBs, and, depending on findings, replacement.
>
> Since that [EASA] AD was issued, a new standard of fuel pump was developed, which improves the thermal protection, thereby preventing the potential unsafe condition and cancelling the need for repetitive functional tests of the affected CBs, as required by EASA AD 2013–0163. Airbus issued Service Bulletin (SB) A300–28–0093, SB A300–28–6111, SB A300–28–9025 and SB A310–28–2176 to provide instructions for this upgrade of the fuel pump for all positions on the aeroplane.
>
> For the reasons described above, this [EASA] AD retains the requirements EASA AD 2013–0163, which is superseded, and requires installation of the new standard fuel pump, which constitutes terminating action for the repetitive functional tests.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0339.

Related Service Information Under 1 CFR Part 51

Airbus has issued the following service information, which describes procedures for installing new standard fuel pumps with improved thermal protection. These documents are distinct since they apply to different airplane models in different configurations.

- Service Bulletin A300–28–0093, dated December 15, 2015.
- Service Bulletin A300–28–6111, Revision 01, dated February 29, 2016.
- Service Bulletin A310–28–2176, dated December 15, 2015.

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

FAA's Determination and Requirements of This Proposed AD

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

Costs of Compliance

We estimate that this proposed AD affects 128 airplanes of U.S. registry.

The actions required by AD 2014–13–17 and retained in this proposed AD take about 1 work-hour per product, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the actions that are required by AD 2014–13–17 is $85 per product, per inspection cycle.

We also estimate that it would take up to 21 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts cost per product is not available. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be up to $228,480, or up to $1,785 per product.

According to the manufacturer, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all available costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2014–13–17, Amendment 39–17893 (79 FR 41098, July 15, 2014), and adding the following new AD:

Airbus: Docket No. FAA–2017–0339; Directorate Identifier 2016–NM–078–AD.

(a) Comments Due Date

We must receive comments by June 30, 2017.

(b) Affected ADs

This AD replaces AD 2014–13–17, Amendment 39–17893 (79 FR 41098, July 15, 2014) (''AD 2014–13–17'').

(c) Applicability

This AD applies to the Airbus airplanes, certificated in any category, identified in paragraphs (c)(1) through (c)(6) of this AD, all manufacturer serial numbers.

(1) Airbus Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes.

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

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

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

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

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

(d) Subject

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

(e) Reason

This AD was prompted by reports of failures of the right inner tank fuel pump. We are issuing this AD to prevent a fuel pump from overheating, which could result in a fuel tank explosion and consequent loss of the airplane.

(f) Compliance

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

(g) Retained: Repetitive Functional Tests of Circuit Breakers, With New Terminating Action

This paragraph restates the requirements of paragraph (g) of AD 2014–13–17, with a new terminating action.

(1) Within 6 months or 500 flight hours after August 19, 2014 (the effective date of AD 2014–13–17), whichever occurs first: Do a functional test of the circuit breakers for the fuel pump power supply, as identified in paragraphs (g)(1)(i), (g)(1)(ii), and (g)(1)(iii) of this AD, as applicable, in accordance with Airbus Alert Operators Transmission A28W002–13, dated July 23, 2013. Repeat the functional test thereafter at intervals not to exceed 6 months or 500 flight hours, whichever occurs first, until the fuel pump installation required by paragraph (h) of this AD is accomplished.

(i) For Airbus Model A300 B2–1A, B2–1C, B2K–3C, and B2–203 airplanes: Inner and outer pump, No. 1 and No. 2, left-hand (LH) side and right-hand (RH) side.

(ii) For Airbus Model A300 B4–2C, B4–103, B4–203, B4–601, B4–603, B4–620, and B4–622 airplanes; and A310–203, –204, –221, and –222 airplanes:

(A) Inner and outer pump, No. 1 and No. 2, LH and RH; and

(B) Center pump, LH and RH.

(iii) For Airbus Model A300 B4–605R, B4–622R, F4–605R, F4–622R, and C4–605R Variant F airplanes; and Model A310–304, –322, –324, and –325 airplanes:

(A) Inner and outer pump, No. 1 and No. 2, LH and RH;

(B) Center pump, LH and RH; and

(C) Trim tank pump No. 1 and No. 2.

(2) If, during any functional test required by paragraph (g)(1) of this AD, any circuit breaker fails any functional test, or any circuit breaker is found to be stuck closed, before further flight, replace the affected circuit breaker with a serviceable part, in accordance with Airbus Alert Operators Transmission A28W002–13, dated July 23, 2013.

(3) The replacement of one or more circuit breakers as required by paragraph (g)(2) of this AD does not terminate the repetitive functional tests required by paragraph (g)(1) of this AD.

(h) New Requirement of This AD: Installation of Fuel Pumps Having a New Standard

Within 72 months after the effective date of this AD: Install a fuel pump having a new standard at each applicable location on the airplane, in accordance with the Accomplishment Instructions of the applicable service information specified in paragraph (h)(1), (h)(2), or (h)(3) of this AD. Accomplishment of the installation of fuel pumps having the new standard terminates the requirement for the repetitive functional tests required by paragraph (g)(1) of this AD.

(1) Airbus Service Bulletin A300–28–0093, dated December 15, 2015.

(2) Airbus Service Bulletin A300–28–6111, Revision 01, dated February 29, 2016.

(3) Airbus Service Bulletin A310–28–2176, dated December 15, 2015.

(i) Parts Installation Prohibition

After the installation of any fuel pump having a new standard on an airplane, as required by paragraph (h) of this AD, no person may install any fuel pump having part number 2052Cxx (where ''xx'' represents any numerical combination) on that airplane.

(j) Credit for Previous Actions

This paragraph provides credit for the installation required by paragraph (h) of this AD, if the installation was done before the effective date of this AD using Airbus Service Bulletin A300–28–6111, dated December 15, 2015.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* If any Airbus service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an

airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2016–0080, dated April 21, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0339.

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

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on May 8, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–09845 Filed 5–15–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket Number USCG–2016–0916]

RIN 1625–AA01

Anchorages; Captain of the Port Puget Sound Zone, WA

AGENCY: Coast Guard, DHS.

ACTION: Change in comment period on notice of proposed rulemaking.

SUMMARY: The Coast Guard is adding an additional 90 days to the comment period on the notice of proposed rulemaking for ''Anchorages; Captain of the Port Puget Sound Zone, WA'' published in the **Federal Register** on February 10, 2017. We are changing the comment period to allow the public more time to comment on this proposed rule published in February. You now have through August 9, 2017, to submit comments.

DATES: The comment period for the proposed rule published February 10, 2017 (82 FR 10313) has been changed. Comments and related material must be received by the Coast Guard on or before August 9, 2017.

ADDRESSES: You may submit comments identified by docket number USCG–2016–0916 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Mr. Laird Hail, U.S. Coast Guard Sector Puget Sound; telephone 206–217–6051, email *SectorPugetSoundWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard is adding an additional 90 days to the comment period on the notice of proposed rulemaking for ''Anchorages; Captain of the Port Puget Sound Zone, WA'' that we published in the **Federal Register** on February 10, 2017 (82 FR 10313). We are changing the comment period to allow the public more time to comment on this subject. The comment period is now open through August 9, 2017. If you submit comments after the initial deadline of May 11, 2017, they will be accepted and considered so long as they are submitted on or before August 9, 2017.

In the notice of proposed rulemaking, the Coast Guard proposes the creation of several new anchorages and holding areas as well as a non-anchorage area, the expansion of one existing general anchorage, and the establishment of new and clarification of existing regulations governing such anchorages and areas in the Puget Sound area. This action is necessary to provide enhanced safety for maritime traffic in the Puget Sound area.

Public Participation and Request for Comments

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

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

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *http://www.regulations.gov/privacyNotice.*

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

This document is issued under authority of 5 U.S.C. 552(a) and 553.

Dated: May 8, 2017.

B.C. McPherson,

Captain, U.S. Coast Guard, Acting Commander, Thirteenth Coast Guard District.

[FR Doc. 2017–09884 Filed 5–15–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0159]

RIN 1625–AA00

Safety Zone; Recurring Marine Events, Sector Key West, Florida.

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish moving safety zones for certain waters within the Sector Key West Captain of the Port (COTP) Zone for five annually recurring marine events. This action is necessary to provide for the safety of the participants, participant vessels, and the general public on the navigable waters of the United States during these events. When these safety zones are activated and subject to enforcement, this rule would prohibit persons and vessels, other than those participating in the event, from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the COTP Key West or a designated representative. We invite your comments on this proposed rule.

DATES: Comments and related material must be received by the Coast Guard on or before June 15, 2017.

ADDRESSES: You may submit comments identified by docket number USCG–2017–0159 using the Federal e-Rulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rulemaking, call or email Lieutenant Scott Ledee, Waterways Management Division Chief, Sector Key West, FL, U.S. Coast Guard; telephone (305) 292–8768, e-mail *SKWWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

COTP Captain of the Port
CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

Swim events and marine events are held on an annual recurring basis on the navigable waters within the Sector Key West COTP Zone. In the past, the Coast Guard has established safety zones for these annual recurring events on a case by case basis to ensure the protection of the maritime public and event participants from the hazards associated with these events. This proposed rule will consistently apprise the public in a timely manner through permanent publication in Title 33 of the Code of Federal Regulations. The Table in this proposed rule lists each annual recurring event requiring a regulated area as administered by the Coast Guard.

By establishing a permanent regulation containing these annual recurring marine events, the Coast Guard would eliminate the need to establish temporary rules for events that occur on an annual basis.

The legal basis and authorities for this proposed rule is found in 33 U.S.C. 1231.

III. Discussion of Proposed Rule

The Coast Guard proposes to add five new annually recurring marine events to 33 CFR 165.786, as listed in the attached Table to § 165.786 The Table provides the event name, the sponsor name, the location of the event, and the approximate date and time of each event. The specific times, dates, regulated areas and enforcement period for each event will be provided through Broadcast Notice to Mariners, a Notice of Enforcement published in the **Federal Register**, and the Local Notice to Mariners which can be found at the following link: *https://www.navcen.uscg.gov/?pageName=lnmDistrict&region=7.*

The safety zones created by this proposed rule would cover all waters within 50 yards in front of the lead safety vessel preceding the first event participants, 50 yards behind the safety vessel trailing the last event participants, and at all times extend 100 yards on either side of the safety vessels.

This proposed rule would prevent vessels from transiting areas specifically designated as safety zones during the periods of enforcement to ensure the protection of the maritime public and event participants from the hazards associated with the listed annual recurring events. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP Key West or a designated representative.

The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and executive orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 (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 costs and benefits, reducing costs, harmonizing rules, and 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* the OMB 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 expect the economic impact of this proposed rule to not be significant. Although this regulation may restrict access to small portions of the waterway within the Sector Key West COTP Zone, the effect of this regulation will be minimized for the following reasons: (1) The safety zones would only be enforced during limited time intervals during the swim and paddle events; (2) vessels may be authorized to enter the regulated areas with permission of the COTP Key West or a designated representative; and (3) advanced notification of closures will be made via Local Notice to Mariners, Broadcast to Mariners, and through a Notice of Enforcement published in the **Federal Register**.

B. Impact on Small Entities

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

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

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121),

we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the establishment of safety zones. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.lD. A Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

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

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

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add a new § 165.786 to read as follows:

§ 165.786 Safety Zone; Recurring Marine Events, Sector Key West, Florida.

(a) *Regulations.* (1) In accordance with 33 CFR 165.23, entering, transiting through, anchoring in, or remaining within the safety zones listed in the TABLE to § 165.786 during periods of enforcement is prohibited unless authorized by the Captain of the Port (COTP) Sector Key West or a designated representative.

(2) These regulations will be enforced for the duration of each event. Notifications of exacts dates and times of the enforcement period will be made to the local maritime community through the Local Notice to Mariners and Broadcast Notice to Mariners and through a Notice of Enforcement in the **Federal Register** well in advance of the events. Mariners should consult the **Federal Register** or their Local Notice to Mariners to remain apprised of schedule their Local Notice to Mariners to remain apprised of schedule or event changes.

(3) During periods of enforcement, upon being hailed by a Coast Guard vessel by siren, radio, flashing light or other means, the operator must proceed as directed.

(4) Vessel operators desiring to enter, transit through, anchor in, or remain

within the regulated area during the enforcement period shall contact the COTP Sector Key West or the designated on-scene representative via VHF channel 16 or call the Sector Key West Command Center at (305) 292–8727 to obtain permission.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the COTP Key West in the enforcement of the regulated areas.

(c) The COTP Key West or designated representative may delay or terminate any event in this subpart at any time to ensure safety of life or property. Such action may be justified as a result of weather, traffic density, spectator operation, or participant behavior.

(d) The regulated area for all marine events listed in Table 1 of § 165.786 is that area of navigable waters within 50 yards in front of the lead safety vessel preceding the first event participants, 50 yards behind the safety vessel trailing the last event participants, and at all times extend 100 yards on either side of safety vessels.

TABLE TO § 165.786

[Datum NAD 1983]

4.0	APRIL
4.1 Key West Paddle Board Classic	Event Type: Paddle Event. Sponsor: Lazy Dog Adventure Outfitters Dates: A one day event held on the last weekend in April. Time (Approximate): 9:00 a.m. to 4:00 p.m., daily. Location(s): Begins at Higgs Beach in Key West, Florida at a point Latitude 24°32.81′ N., longitude 081°47.20′ W., thence west offshore of Fort Zach State Park to latitude 24°32.72′ N., longitude 081°48.77′ W., thence north through Key West Harbor to latitude 24°34.10′ N., longitude 081°48.14′ W., thence east through Fleming Cut to latitude 24°34.42′ N., longitude 081°45.08′ W., south on Cow Key Channel to latitude 24°33.04′ N., longitude 081°44.98′ W., and thence west to point of origin at latitude 24°32.81′ N., longitude 081°47.20′ W.
6.0	JUNE
6.1 FKCC Swim Around Key West	Event Type: Swim Event. Sponsor: Florida Keys Community College Dates: A one day event held on a Saturday in June. Time (Approximate): 7:30 a.m. to 4:00 p.m. Location(s): Begins at Smathers Beach in Key West, Florida at a point Latitude 24°33.01′ N., longitude 081°46.47′ W., thence west offshore of Fort Zach State Park to latitude 24°32.72′ N., longitude 081°48.77′ W., thence north through Key West Harbor to latitude 24°34.10′ N., longitude 081°48.14′ W., thence east through Fleming Cut to latitude 24°34.42′ N., longitude 081°45.08′ W., south on Cow Key Channel to latitude 24°33.04′ N., longitude 081°44.98′ W., and thence west to point of origin at latitude 24°33.01′ N., longitude 081°46.47′ W.
6.2 Annual Swim Around Key West	Event Type: Swim Event. Sponsor: Key West Athletic Association Dates: A one day event held on a Saturday in June. Time (Approximate): 7:30 a.m. to 4:00 p.m. Location(s): Begins at Smathers Beach in Key West, Florida at a point Latitude 24°33.01′ N., longitude 081°46.47′ W., thence west offshore of Fort Zach State Park to latitude 24°32.72′ N., longitude 081°48.77′ W., thence north through Key West Harbor to latitude 24°34.10′ N., longitude 081°48.14′ W., thence east through Fleming Cut to latitude 24°34.42′ N., longitude 081°45.08′ W., south on Cow Key Channel to latitude 24°33.04′ N., longitude 081°44.98′ W., and thence west to point of origin at latitude 24°33.01′ N., longitude 081°46.47′ W.
7.0	JULY
7.1 Hemingway Paddle Board Race	Event Type: Paddle Event. Sponsor: Hemingway Sunset Run LLC Dates: A one day event held on the 2nd or 3rd Saturday in July. Time (Approximate): 6:00 p.m. to 7:30 p.m. Location(s): Begins at Higgs Beach in Key West, Florida at a point Latitude 24°32.79′ N., longitude 081°47.74′ W., thence east to latitude 24°32.56′ N., longitude 081°47.11′ W., thence east to latitude 24°33.01′ N., longitude 081°46.47′ W., thence west to latitude 24°32.56′ N., longitude 081°47.11′ W., and thence west to point of origin at latitude 24°32.79′ N., longitude 081°47.74′ W.
9.0	SEPTEMBER
9.1 Swim for Alligator Lighthouse	Event Type: Swim Event. Sponsor: Friends of the Pool Dates: A one day event held on the 3rd Saturday in September. Time (Approximate): 7:30 a.m. to 4:30 p.m. Location(s) (Primary): Beginning at a point Latitude 24°54.82′ N., longitude 080°38.03′ W., thence to latitude 24°54.36′ N., longitude 080°37.72′ W., thence to latitude 24°51.07′ N., longitude 080°37.14′ W., thence to latitude 24°54.36′ N., longitude 080°37.72′ W., thence to point of origin at latitude 24°54.82′ N., longitude 080°38.03′ W. Location(s) (Alternate) [1]: Beginning at a point Latitude 24°54.82′ N., longitude 080°38.03′ W., thence to latitude 24°53.25′ N., longitude 080°37.04′ W., thence to latitude 24°52.05′ N., longitude 080°38.85′ W., thence to latitude 24°54.36′ N., longitude 080°37.72′ W., thence to point of origin at latitude 24°54.82′ N., longitude 080°38.03′ W.

Dated: May 8, 2017.

J.A. Janszen,

Captain, U.S. Coast Guard, Captain of the Port Key West.

[FR Doc. 2017–09779 Filed 5–15–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF DEFENSE

Department of the Army, U.S. Army Corps of Engineers

33 CFR Part 209

[COE–2016–0016]

RIN 0710–AA72

Use of U.S. Army Corps of Engineers Reservoir Projects for Domestic, Municipal & Industrial Water Supply

AGENCY: Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking; extension of time for public comments.

SUMMARY: The U.S. Army Corps of Engineers (USACE) is extending the public comment period for the notice of proposed rulemaking that appeared in the **Federal Register** of December 16, 2016.

DATES: The comment period for the proposed rule published December 16, 2016 at 81 FR 91556 is extended until August 18, 2017.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Email: WSRULE2016@usace.army.mil. Include the docket number, COE–2016–0016, in the subject line of the message.

Mail: U.S. Army Corps of Engineers, ATTN: CECC–L, U.S. Army Corps of Engineers, 441 G St NW., Washington, DC 20314.

Hand Delivery/Courier: Due to security requirements, we cannot receive comments by hand delivery or courier.

FOR FURTHER INFORMATION CONTACT: *Technical information:* Jim Fredericks, 503–808–3856. *Legal information:* Daniel Inkelas, 202–761–0345.

SUPPLEMENTARY INFORMATION: In response to requests from multiple parties, USACE is extending the time for public comments to August 18, 2017. The date listed in the **DATES** section by which comments must be received is changed from May 15, 2017 to August 18, 2017.

Dated: May 10, 2017.

Theodore A. Brown,

Chief, Policy and Planning Division, Directorate of Civil Works, U.S. Army Corps of Engineers.

[FR Doc. 2017–09861 Filed 5–15–17; 8:45 am]

BILLING CODE 3720–58–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 704

[EPA–HQ–OPPT–2010–0572; FRL–9962–64]

RIN 2070–AK39

Draft Guidance for Reporting of Chemical Substances When Manufactured or Processed as Nanoscale Materials; Notice of Availability and Request for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Draft guidance; request for comment.

SUMMARY: With this document, EPA is announcing the availability of and requesting public comment on the draft guidance document, entitled: ''Guidance on EPA's Section 8(a) Information Gathering Rule on Nanomaterials in Commerce''. This guidance provides answers to questions the Agency has received from manufacturers (includes importers) and processors of certain chemical substances when they are manufactured or processed at the nanoscale as described in a final rule that appeared in the **Federal Register** of January 12, 2017. That rule involves one-time reporting for existing discrete forms of certain nanoscale materials, and a standing one-time reporting requirement for new discrete forms of certain nanoscale materials.

DATES: Comments must be received on or before June 15, 2017.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2010–0572, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Jim Alwood, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8974; email address: *alwood.jim@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Who does this action apply to?

You may be potentially affected by this action if you manufacture or process or intend to manufacture or process nanoscale forms (forms with particle sizes of 1–100 nm) of certain chemical substances as defined in TSCA section 3. You may also want to consult 40 CFR 704.3 and 704.5, and the January 2017 final rule, for further information on the applicability of the reporting requirements as well as exemptions to the rule. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document may apply to them:

- Chemical Manufacturing or Processing (NAICS codes 325).
- Synthetic Dye and Pigment Manufacturing (NAICS code 325130).
- Other Basic Inorganic Chemical Manufacturing (NAICS code 325180).
- Rolled Steel Shape Manufacturing (NAICS code 331221).
- Semiconductor and Related Device Manufacturing (NAICS code 334413).
- Carbon and Graphite Product Manufacturing (NAICS code 335991).
- Home Furnishing Merchant Wholesalers (NAICS code 423220).
- Roofing, Sliding, and Insulation Material Merchant Wholesalers (NAICS code 423330).
- Metal Service Centers and Other Metal Merchant Wholesalers (NAICS code 423510).

II. Background

The nanoscale reporting rule that appeared in the **Federal Register** of January 12, 2017 (82 FR 3641; FRL–

9957–81), requires persons that manufacture (defined by statute to include import) or process, or intend to manufacture or process those chemical substances subject to the rule to report to EPA the specific chemical identity, production volume, methods of manufacture and processing, exposure and release information, and existing information concerning environmental and health effects.

III. What action is the agency taking?

EPA is announcing the availability of and requesting public comment on the draft guidance document, entitled: ''Guidance on EPA's Section 8(a) Information Gathering Rule on Nanomaterials in Commerce''. This draft guidance provides answers to questions the Agency has received from manufacturers (includes importers) and processors regarding the rule.

This draft guidance is being made available on the Agency's Web site at *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/control-nanoscale-materials-under#guidance,* and is also available in the docket (docket ID number EPA–HQ–OPPT–2010–0572). Please go to *http://www.regulations.gov* to access the docket and follow the online instructions to submit comments.

EPA is accepting comments regarding the guidance, but is not accepting comments regarding the rule itself, which has already been finalized.

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

The final rule was issued under the authority in section 8(a) of the Toxic Substances Control Act as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act (TSCA), 15 U.S.C. 2601 *et seq.,* which provides EPA with authority to require reporting, recordkeeping and testing, and impose restrictions relating to chemical substances and/or mixtures.

V. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

Authority: 15 U.S.C. 2601 *et seq.*

Dated: May 10, 2017.

Wendy Cleland-Hamnett,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2017–09998 Filed 5–12–17; 4:15 pm]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 51, and 63

[WC Docket No. 17–84; FCC 17–37]

Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, a Notice of Proposed Rulemaking (*NPRM*) seeks comment on a number of actions designed to remove regulatory barriers to infrastructure investment at the federal, state, and local level, speed the transition from copper networks and legacy services to next-generation networks and services, and reform Commission regulations that increase costs and slow broadband deployment. The *NPRM* seeks comment on pole attachment reforms, changes to the copper retirement and other network change notification processes, and changes to the section 214(a) discontinuance application process. The Commission adopted the *NPRM* in conjunction with a Notice of Inquiry and Request for Comment in WC Docket No. 17–84.

DATES: Comments are due on or before June 15, 2017, and reply comments are due on or before July 17, 2017. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before July 17, 2017.

ADDRESSES: You may submit comments, identified by WC Docket No. 17–84, by any of the following methods:

- *Federal Communications Commission's Web site: http://apps.fcc.gov/ecfs/.* Follow the instructions for submitting comments.
- *Mail:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554.
- *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document. In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to the Federal Communications Commission via email to *PRA@fcc.gov* and to Nicole Ongele, Federal Communications Commission, via email to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Wireline Competition Bureau, Competition Policy Division, Michele Berlove, at (202) 418–1477, *michele.berlove@fcc.gov,* or Michael Ray, at (202) 418–0357, *michael.ray@fcc.gov.* For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an

email to *PRA@fcc.gov* or contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (*NPRM*) in WC Docket No. 17–84, adopted April 20, 2017 and released April 21, 2017. The full text of this document is available for public inspection during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. It is available on the Commission's Web site at *http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0421/FCC-17-37A1.pdf.*

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998), *http://www.fcc.gov/Bureaus/OGC/Orders/1998/fcc98056.pdf.*

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *https://www.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554.
- *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Synopsis

I. Introduction

1. High-speed broadband is an increasingly important gateway to jobs, health care, education, information, and economic development. Access to high-speed broadband can create economic opportunity, enabling entrepreneurs to create businesses, immediately reach customers throughout the world, and revolutionize entire industries. Today, we propose and seek comment on a number of actions designed to accelerate the deployment of next-generation networks and services by removing barriers to infrastructure investment.

2. This *NPRM* seeks to better enable broadband providers to build, maintain, and upgrade their networks, which will lead to more affordable and available Internet access and other broadband services for consumers and businesses alike. Today's actions propose to remove regulatory barriers to infrastructure investment at the federal, state, and local level; suggest changes to speed the transition from copper networks and legacy services to next-generation networks and services; and propose to reform Commission regulations that increase costs and slow broadband deployment.

II. Pole Attachment Reforms

3. Pole attachments are a key input for many broadband deployment projects. Reforms which reduce pole attachment costs and speed access to utility poles would remove significant barriers to broadband infrastructure deployment and in turn increase broadband availability and competition in the provision of high-speed services.

4. The Communications Act of 1934, as amended (Act), grants the Commission authority to regulate attachments to utility-owned and -controlled poles, ducts, conduits, and rights-of-way (collectively, poles). Among other things, the Act authorizes the Commission to prescribe rules ensuring ''just and reasonable'' ''rates, terms, and conditions'' for pole attachments and ''nondiscriminatory access'' to poles, rules defining pole attachment rates for attachers that are cable television systems and telecommunications carriers, rules regarding the apportionment of make-ready costs between utilities and attachers, and rules requiring all local exchange carriers (LECs) to ''afford access to the poles, ducts, conduits, and rights-of-way of such carrier to competing providers of telecommunications service . . . .'' Section 224(a)(4) of the Act defines a pole attachment as any attachment by a cable television system or provider of telecommunications service to a pole, duct, conduit, or right-of-way owned or controlled by a utility. Accordingly, unless specified otherwise, we use the term ''pole attachment'' in this *NPRM* to refer to attachments not only to poles, but to ducts, conduits, and rights-of-way as well. ''Make-ready'' generally refers to the modification of poles or lines or the installation of certain equipment (*e.g.,* guys and anchors) to accommodate additional facilities. The Act also allows states to reverse-preempt the Commission's regulations so long as they meet certain federal standards. To date, twenty states and the District of Columbia have reverse-preempted Commission jurisdiction over the rates, terms, and conditions of pole attachments in their states.

5. We seek to exercise this authority to accelerate the deployment of next-generation infrastructure so that consumers in all regions of the Nation can enjoy the benefits of high-speed Internet access as well as additional competition.

A. Speeding Access to Poles

6. We seek comment on proposals to streamline and accelerate the Commission-established timeline for processing pole attachment requests, which currently envisions up to a five-month process (assuming all contemplated deadlines are met). Several proposals to speed pole access allow telecommunications and cable providers seeking to add equipment to a utility pole (a ''new attacher'') to adjust, on an expedited basis, the preexisting equipment of the utility and other providers already on that pole (''existing attachers''). We emphasize at the outset that we are seeking to develop an approach that balances the legitimate needs and interests of new attachers, existing attachers, utilities, and the public. In particular, we recognize that speeding access to poles could raise meaningful concerns about safety and protection of existing infrastructure. We intend to work toward an approach that facilitates new attachments without creating undue risk of harm. We intend for the proposals below to be a starting point that will stimulate refinements as we work toward potential adoption of a final pole attachment process.

1. Speeding the Current Commission Pole Attachment Timeline

7. We seek comment on potential reforms to the various steps of the Commission's current pole attachment timeline to facilitate timely access to poles. Access to poles, including the preparation of poles for new attachments, must be timely in order to constitute just and reasonable access under section 224 of the Act. The Commission's current four-stage timeline for wireline and wireless requests to access the ''communications space'' on utility poles, adopted in 2011, provides for periods that do not exceed: application review and engineering survey (45 days), cost estimate (14 days), attacher acceptance (14 days), and make-ready (60–75 days). It also allows timeline modifications for wireless attachments above the communications space and for large requests.

8. *Application Review.* We seek comment on whether we should require a utility to review and make a decision on a completed pole attachment application within a timeframe shorter than the current 45 days. Is 15 days a reasonable timeframe for utilities to act on a completed pole attachment application? Is 30 days? We seek comment on, and examples of, current timelines for the consideration of pole attachment applications, especially in states that regulate their own rates, terms, and conditions for pole access. If we adopt a shorter timeline, we also seek comment on situations in which it might be reasonable for the utility's review of a pole attachment application to extend beyond the new shortened timeline.

9. In addition, we seek comment on retaining the existing Commission rule allowing utilities 15 extra days to consider pole attachment applications in the case of large orders (*i.e.,* up to the lesser of 3,000 poles or five percent of the utility's poles in a state). We also seek comment on capping, at a total of 45 days, utility review of those pole attachment applications that are larger than the lesser of 3,000 poles or five percent of a utility's poles in a state. We seek comment on possible alternatives by which we may take into account large pole attachment orders. We seek comment regarding the expected volume of pole attachment requests associated with the 5G rollouts of wireless carriers and whether the extended timelines for larger pole attachment orders might help utilities process the large volume of requests we anticipate will be associated with the 5G buildouts.

10. *Survey, Cost Estimate, and Acceptance.* We seek comment on whether the review period for pole attachment applications should still include time for the utility to survey the poles for which access has been requested. With regard to the estimate and acceptance steps of the current pole access timeline, should we require a timeframe for these steps that is shorter than the current 28 days? Would it be reasonable to combine these steps into a condensed 14-day (or 10-day) period? Could we wrap these two steps into the make-ready timeframe? Would it be reasonable to eliminate these two steps entirely? If so, without the estimate and acceptance steps, then what alternatives should there be for requiring utilities and new attachers to come to an agreement on make-ready costs?

11. *Make-Ready.* We also seek comment on approaches to shorten the make-ready work timeframe. The Commission currently requires that utilities give existing attachers a period not to exceed 60 days after the make-ready notice is sent to complete work on their equipment in the communications space of a pole. In adopting a 60-day maximum period for existing attachers to complete make-ready work, the *2011 Pole Attachment Order* recommended as a ''best practice'' a make-ready period of 30 days or less for small pole attachment requests and 45 days for medium-size requests. Should the Commission adopt as requirements the ''best practices'' timeframes set forth in the *2011 Pole Attachment Order*? What other timeframes would be reasonable, recognizing the safety concerns and property interests of existing attachers and utilities when conducting make-ready work on a pole? We seek comment on any state experience with this phase of the make-ready process—how long is it taking existing attachers to perform make-ready work in states that are not subject to Commission pole attachment jurisdiction? Do existing attachers require the full make-ready periods to move their attachments such that the total timeline for a new attacher exceeds the Commission's existing pole attachment timeline? Are there situations in which it is reasonable for existing attachers to go beyond the current Commission timeframes to complete make-ready work? Further, are there ways that the Commission can eliminate or significantly reduce the need for make-ready work? For example, what can the Commission do to encourage utilities to proactively make room for future attachers by consolidating existing attachments, reserving space on new poles for new attachers, and allowing the use of extension arms to increase pole capacity?

12. In addition, the Commission has adopted longer maximum periods for existing attachers and utilities to complete make-ready work in the case of large pole attachment orders (an additional 45 days) and in the case of wireless attachments above the communications space (a total of up to 90 days for such attachments or up to 135 days in the case of large wireless attachment orders). We seek comment on whether it is reasonable to retain these extended time periods for large pole attachment orders and for wireless attachments above the communications space. We seek comment on reasonable alternatives to these timelines, bearing in mind the safety concerns inherent in make-ready work above the communications space on a pole and the manpower concerns of existing attachers and utilities when having to perform make-ready on large numbers of poles in a condensed time period.

2. Alternative Pole Attachment Processes

13. We seek comment generally on possible alternatives to the Commission's current pole attachment process that might speed access to poles. We also seek comment on potential remedies, penalties, and other ways to incent utilities, existing attachers, and new attachers to work together to speed the pole attachment timeline. If the Commission were to adopt any of the revisions proposed below or other revisions to our process, would section 224 of the Act support such an approach? What other statutory authority could the Commission rely on in adopting such changes? In considering the proposals below for alternatives to the pole attachment timeline, we seek comment on the need to balance the benefits of these alternatives against the safety and property concerns that are paramount to the pole attachment process. For example, we seek comment on the extent to which any of the proposals may violate the Fifth Amendment protections of utilities and existing attachers against the taking of their property without just compensation.

14. *Use of Utility-Approved Contractors to Perform Make-Ready Work.* We seek comment on whether the Commission should adopt rules that would allow new attachers to use utility-approved contractors to perform ''routine'' make-ready work and also to perform ''complex'' make-ready work (*i.e.,* make-ready work that reasonably would be expected to cause a customer

outage) in situations where an existing attacher fails to do so. Under the Commission's current pole attachment timeline, utilities may allow existing attachers up to 60 days to complete make-ready work on their equipment in the communications space and utilities have the right to ask for an additional 15 days to complete the work when the existing attacher fails to do so. Only after that period of up to 75 days has run, and neither the existing attachers nor the utilities have met their deadlines, can new attachers begin to perform make-ready work using utility-approved contractors. The timelines are even longer in cases of larger pole attachment requests and for wireless make-ready work above the communications space on a pole. We seek comment on whether it would be reasonable to expand the use of utility-approved contractors to perform make-ready work, especially earlier in the pole attachment process. Would it be reasonable to eliminate the utility's right to complete make-ready work in favor of a new attacher performing the make-ready work after an existing attacher fails to meet its make-ready deadline?

15. We seek comment on balancing the benefits of allowing new attachers to use utility-approved contractors to perform make-ready work against any drawbacks of allowing contractors that may not be approved by existing attachers to move existing equipment on a pole. We urge commenters, whenever possible, to provide quantifiable data or evidence supporting their position. We note that AT&T, in its federal court challenge of Louisville, Kentucky's pole attachment ordinance, argued that utility-approved contractors ''have on occasion moved AT&T's network facilities, with less-than-satisfactory results,'' while Comcast argued in its federal court challenge to Nashville, Tennessee's pole attachment ordinance that third-party contractors ''are significantly more likely to damage Comcast's equipment or interfere with its services.'' We seek comment on other safety and property concerns that the Commission should account for in considering whether to allow an expanded role in the make-ready process for utility-approved contractors. We also seek comment on liability safe harbors that would protect the property and safety interests of existing attachers, utilities, and their customers when new attachers use utility-approved contractors to perform make-ready work on poles and existing equipment on the poles. For example, to ensure protections for existing attachers and utilities, would it be reasonable to impose on new attachers requirements such as surety bonds, indemnifications for outages and damages, and self-help remedies for utilities and existing attachers to fix problems caused by new attacher contractors? Are there other safeguards that we can adopt to protect existing attachers, utilities, and their customers in the event that the new attacher's contractors err in the performance of make-ready work?

16. For make-ready work that would be considered ''routine'' in the communications space of a pole, is it reasonable to allow a new attacher to use a utility-approved contractor to perform such work after notice has been sent to existing attachers? Would it be reasonable to allow new attachers to use utility-approved contractors to perform complex make-ready work as well? Also, because of the special skills required to work on wireless attachments above the communications space on a pole, we seek comment on whether utilities should be required to keep a separate list of contractors authorized to perform this specialized make-ready work. Currently, utilities are required to make available and keep up-to-date a reasonably sufficient list of contractors authorized to perform make-ready work in the communications space on a utility pole. Should utility-approved contractors that work for new attachers be allowed to perform make-ready work on wireless attachments above the communications space on a pole?

17. We also seek comment on the following proposals that address the safety and property concerns of existing attachers and utilities:

- Requiring all impacted attachers (new, existing, and utilities) to agree on a contractor or contractors that the new attacher could use to perform make-ready work; and/or
- requiring that existing attachers (or their contractors) be given the reasonable opportunity to observe the make-ready work being done on their existing equipment by the new attachers' contractors.

We seek comment on the benefits of these and other alternative proposals involving the use of utility-approved contractors to perform make-ready work.

18. *New Attachers Performing Make-Ready Work.* We seek comment on whether we should adopt rules to allow new attachers (using utility-approved contractors) to perform routine make-ready work in lieu of the existing attacher performing such work. Recognizing that existing attachers may oppose such proposals, we seek comment on alternatives that would address their safety and property concerns, while still shortening the make-ready timeline. Allowing the new attacher to perform make-ready work would save time over the current Commission timeline by permitting the new attacher to initiate routine make-ready work after giving brief (or no) notice to existing attachers. We recognize that such a process would exclude existing attachers from the opportunity to perform routine make-ready work and we seek comment on whether such an exclusion is reasonable. We note that in crafting the pole attachment timeline adopted in 2011, the Commission sought to strike a balance between the goals of promoting broadband infrastructure deployment by new attachers and safeguarding the reliability of existing networks. We seek comment on the risks and drawbacks of any proposal that seeks to change that balance by letting new attachers conduct routine make-ready work without allowing existing attachers the opportunity to do so.

19. We also recognize that a number of carriers have raised concerns about allowing new attachers to conduct routine make-ready work on equipment belonging to existing attachers. As AT&T pointed out in its challenge to Louisville's pole attachment ordinance, the movement and rearrangement of communications facilities has public safety implications; we thus seek comment on AT&T's claim that the ''service provider whose pre-existing facilities are at issue plainly is in the best position to determine whether required make-ready work could be service-affecting or threaten the reliability of its network.'' Charter, in a separate challenge to Louisville's ordinance, argues that allowing competitors to perform make-ready work on its equipment could intentionally or unintentionally ''damage or disrupt [Charter]'s ability to serve its customers, creating an inaccurate perception in the market about [Charter]'s service quality and harming its goodwill.'' We seek comment on Charter's claim and whether make-ready procedures that exclude existing attachers could lead to consumer misunderstandings in the event of service disruptions that occur during make-ready work by other attachers. Should new attachers that perform make-ready work be required to indemnify, defend, and hold harmless existing attachers for damages or outages that occur as a result of make-ready work on their equipment?

20. *Post Make-Ready Timeline.* If existing attachers are not part of the make-ready process, then we seek

comment on an appropriate timeline for inspections and/or surveys by the existing attachers after the completion of make-ready work. For example, Nashville, Tennessee's pole attachment ordinance allows for a 30-day timeline for the inspection and resolution of problems detected by existing attachers to the make-ready work done on their equipment. Is 30 days enough time to detect and rectify problems caused by improper make-ready work? Are there reasonable alternative time periods for existing attachers to review make-ready work and fix any detected problems? For example, the Louisville, Kentucky pole attachment ordinance allows for a 14-day inspection period. Further, is it reasonable to allow the existing attacher to elect to fix the defective make-ready work on its own (at the new attacher's expense) or to require the new attacher to fix the problems caused by its work?

21. *One-Touch, Make-Ready.* We seek comment on the potential benefits and drawbacks of a pole attachment regime patterned on a ''one-touch, make-ready'' (OTMR) approach, which includes several of the concepts discussed above as part of a larger pole attachment framework. Both Nashville, Tennessee and Louisville, Kentucky have adopted pole attachment regimes that involve elements of an OTMR policy. The Commission has noted that OTMR policies ''seek to alleviate 'a significant source of costs and delay in building broadband networks' by 'lower[ing] the cost of the make-ready process and speed[ing] it up.' '' Would a new pole attachment timeline patterned on an OTMR approach help spur positive decisions on broadband infrastructure deployment? According to the Fiber to the Home Council, an OTMR approach ''minimizes disruption in the public rights-of-way and protects public safety and aesthetics'' while also speeding broadband deployment. We seek other assessments and analysis of the benefits and drawbacks of an OTMR pole attachment process. Would some blend of an OTMR approach coupled with the current Commission pole attachment timeline and protections help spur timely access to poles?

22. Under the Nashville OTMR ordinance, the pole attachment process works as follows: (1) A new attacher submits an attachment application to the utility and after approval of the application, the new attacher notifies the utility of the need for make-ready work; (2) the new attacher then contracts with a utility-approved contractor to perform all of the necessary make-ready work; (3) the new attacher gives 15 days' prior written notice to existing attachers before initiating make-ready work; (4) within 30 days after the completion of make-ready, the new attacher sends written notice of the make-ready work to existing attachers; (5) upon receipt of such notice, the existing attachers may conduct a field inspection of the make-ready work within 60 days; (6) if an existing attacher finds a problem with the make-ready work, then it may notify the new attacher in writing (within the 60-day inspection window) and elect to either fix the problem itself at the new attacher's expense or instruct the new attacher to fix the issue; and (7) if a new attachment involves ''complex'' make-ready work, then the new attacher must notify each existing attacher of the make-ready work at least 30 days before commencement of the work in order to allow the existing attachers the opportunity to rearrange their equipment to accommodate the new attacher—if such work is not performed by the existing attachers within 30 days, then the new attacher can perform the required make-ready work using utility-approved contractors. We seek detailed comment on the benefits and drawbacks of this approach. Are there steps in the Nashville pole attachment process where utilities, new attachers, and existing attachers could all benefit from streamlined access to poles, especially as compared to the current Commission pole attachment timeline? Rather than adopting a wholesale OTMR approach to the pole attachment process, are there individual OTMR elements that could form the basis of a more preferable timeline than what currently exists in the Commission's rules?

23. The Louisville OTMR ordinance differs from the one in Nashville in that it does not require new attachers to send pre-make-ready notices to existing attachers for routine requests, it shortens the timeline for the post-make-ready field inspection for routine make-ready work from 60 days to 14 days, it requires existing attachers to notify the new attacher of any problems (and the election of how to fix those problems) within 7 days after the field inspection, and it requires new attachers to correct any problems within 30 days of the notice. We seek comment on the alternatives advanced in the Louisville OTMR ordinance and whether the Commission should incorporate any or all of these concepts into a new pole attachment regime. Does the Louisville ordinance better balance the concerns of existing attachers and utilities than the Nashville approach?

24. In addition, CPS Energy, a utility based in San Antonio, Texas, has implemented an OTMR approach for access to its poles. Under the CPS Energy policy, the timeline for the pole attachment process is as follows: (1) 21 days for CPS Energy to review completed pole attachment applications (with a unilateral option for an additional 7 days), survey affected poles, and produce a make-ready cost estimate; (2) 21 days for the new attacher to approve the make-ready cost estimate and provide payment; (3) CPS Energy notice to existing attachers of impending make-ready work; (4) 60 days for CPS Energy to complete any required make-ready work in the electrical space, and 90 days for the new attacher to complete all other routine make-ready work at its expense using contractors approved by CPS Energy (with option to request additional 30 days); (5) new attachers must give 3 days' notice to existing attachers of impending make-ready work and must specify whether the work is complex, such that it ''poses a risk of disconnection or interruption of service to a Critical Communications Facility'' (any complex make-ready work must be completed by the new attacher within 30 days after notice is provided to affected existing attachers); (6) 15 days' notice from new attachers to affected existing attachers after completion of make-ready work; (7) 15 days for existing attachers to inspect make-ready work on their equipment; and (8) 15 days for new attachers to fix any problems after notice from existing attachers. We seek comment on this approach, which varies from the ordinances adopted in Nashville and Louisville, especially in terms of the timing of the various pole attachment stages and the ability of new attachers to perform complex make-ready work themselves. What are the benefits and drawbacks of the process adopted by CPS Energy? Is it significant that this process is a utility-adopted approach as opposed to a government-adopted approach? What can the Commission do to encourage other utilities to adopt pole attachment policies like the one instituted by CPS Energy?

25. *Other Pole Attachment Process Proposals.* Another pole attachment proposal, advanced by members of the Nashville City Council who opposed the OTMR ordinance, is styled ''right-touch, make-ready'' (RTMR), and it would provide a utility 30 days in which to review a pole attachment application, then provide existing attachers 45 days to complete make-ready work. Existing attachers failing to meet the 45-day deadline would be charged $500 per pole per month until required make-ready work is completed. We seek comment on the reasonableness of this

approach. What are the advantages and drawbacks of a RTMR approach as opposed to an OTMR approach? Could elements of both approaches be blended together to form a better alternative to the Commission's current pole attachment timeline? Would the $500 per pole per month charge be enough of an incentive to encourage existing attachers to complete make-ready work by the 45-day deadline? Would it be reasonable to include in a RTMR approach the ability of new attachers (or the utility) to perform make-ready work at the expense of existing attachers who fail to meet the 45-day deadline?

26. As another way to incent accelerated make-ready timelines, could there be a standard ''bonus'' payment or multiplier applied to the make-ready reimbursements sought by existing attachers from new attachers if the overall timelines are met? By basing such incentive payments on the overall timeline being achieved by existing attachers, does this create effective incentives for parties to collaborate and find opportunities for efficiency? For instance, might multiple existing attachers agree to use the same make-ready contractor so they all can reap the reward of the incentive payments? While such incentives could theoretically be arranged through private contracting, would using this as the default system benefit smaller, new attachers who may find complicated negotiations a challenge?

27. Making more information publicly available regarding the rates, location, and availability of poles also could lead to faster pole attachment timelines. We seek comment on the types of pole attachment data resources currently available. Are there ways the Commission could incentivize utilities to establish online databases, maps, or other public information sources regarding pole rates, locations, and availability? To what extent are utilities or other entities already aggregating pole information online, either for internal tracking purposes or externally for potential or existing attachers? What pole-related information other than rates, location, and availability could utilities make publicly available (*e.g.,* number of existing attachers, physical condition, available communications space, the status of make-ready work, status of pole engineering surveys)? Should similar information also be made publicly available for ducts, conduits, and rights-of-way? We recognize that increasing transparency of cost information could lead to more efficient pole attachment negotiations. What steps should the Commission take to facilitate access to information regarding pole attachment rates and costs from pole owners subject to section 224? For instance, should pole owners be required to make pole attachment rates publicly available online? What are the benefits and drawbacks of making pole attachment rate information publicly available? Could the Commission facilitate the creation of a centralized clearinghouse of pole attachment rate information, and if so how?

28. We seek comment on these proposals and any others (or combinations thereof) that could help speed the pole attachment process, yet still address the safety and property concerns of existing attachers and utilities. Might there be ''hybrid'' approaches that incent parties to expeditiously complete the make-ready process when private negotiations fail within a given time period? For instance, if utilities, existing attachers, and new attachers cannot agree on make-ready plans within 15 days, could the following arrangement be used: First, the new attacher would select a ''default'' contractor (approved by the utility); second, the existing attachers would be able to accept the default contractor or do the make-ready work themselves (and be reimbursed by the new attacher) within a specified timeframe with penalties for failure to meet the make-ready deadline? If having a single default contractor do all the work at once will speed deployment, are there ways within this framework to incent existing attachers to allow the new attacher to use the default contractor? For instance, might existing attachers choosing to do make-ready work themselves be limited in the amount they charge for the work? Could such a limit be set as a proportional split among existing attachers that is based on the total make-ready costs that the new attacher would have incurred under an OTMR approach? Would such incentives encourage existing attachers to choose the default contractor in situations where they have little concern about harm to their equipment but still allow them to do the work themselves when they have concerns?

29. We seek discussions of the relative merits and drawbacks of these pole attachment approaches or combinations thereof. For example, would an OTMR approach (or some variant thereof) benefit consumers through increased efficiencies that could lower the costs of deployment? Is there any evidence to show how much less pole attachment costs are if using an OTMR approach as compared with the Commission's current pole attachment timeline? How should we balance the benefits to society from greater speed of deployment and cost savings versus the need to ensure that safety and property concerns are not compromised?

30. We also recognize that some broadband providers encounter difficulties in accessing poles, ducts, conduits, and rights-of-way owned by entities that are not subject to section 224 of the Communications Act, such as municipalities, electric cooperatives, and railroads. ACA members also submit that there are instances where accessing infrastructure owned by municipalities, electric cooperatives, and railroads is cost prohibitive due to the pole attachment rates charged. We seek comment on actions that the Commission might be able to undertake to speed deployment of next generation networks by facilitating access to infrastructure owned by entities not subject to section 224. How can the Commission encourage or facilitate access to information about pole attachment rates and costs with respect to these entities, and what are the benefits and drawbacks of these potential steps? Would increased transparency regarding pole attachment rates and costs for Commission-regulated pole owners, discussed above, benefit potential attachers to non-Commission-regulated poles by providing data that would be useful in contractual negotiations? If so, would this facilitate broadband deployment?

31. *Access to Conduit.* We seek comment on ways to make the process of gaining access specifically to utility conduit more transparent. We ask whether there are existing online databases or other publicly-available resources to aid telecommunications and cable providers in determining where available conduit exists. Do utilities or municipalities have readily available information on the location and cost of access to conduit? Are there ''best practices'' that utilities or municipalities have established that make it easier for providers to obtain crucial information on conduit access? We seek comment on whether any local or state jurisdictions have policies on making conduit information more transparent and widely available, especially with regard to alerting the public and providers about the timing and location of conduit trenches being dug by utilities.

B. Re-Examining Rates for Make-Ready Work and Pole Attachments

1. Reasonableness of ''Make-Ready'' Costs

32. We seek comment on proposals to reduce make-ready costs and to make

such costs more transparent. In general, make-ready charges must be just and reasonable under section 224(b)(1) of the Act. Currently, however, make-ready fees are not subject to any mandatory rate formula set by the Commission. We seek comment on whether the make-ready costs being charged today are just and reasonable, and whether such costs represent a barrier to broadband infrastructure deployment. Further, we seek comment on ways to encourage utilities, existing attachers, and new attachers to resolve more make-ready pole attachment cost and responsibility issues through private negotiations.

33. *Requiring Utilities to Make Available Schedules of Common Make-Ready Charges.* We seek comment on whether we should require utilities to provide potential new attachers with a schedule of common make-ready charges to create greater transparency for make-ready costs. To what extent does the availability of schedules of common make-ready charges help facilitate broadband infrastructure deployment? INCOMPAS suggests that the Commission should revisit its 2011 decision refraining from requiring utilities to provide schedules of common make-ready charges upon request. According to INCOMPAS, ''make ready charges are not predictable or verifiable in many cases, making it difficult for competitors to plan their builds and accurately predict construction.'' We seek comment on the benefits and any potential burdens associated with requiring utilities to provide schedules of make-ready charges.

34. Further, we seek comment on whether and how schedules of common make-ready charges are made available, used, and implemented by both utilities and potential new attachers today. In the *2011 Pole Attachment Order,* the Commission received evidence from utilities that many already make information about common make-ready charges available on request. Is that practice still prevalent today and, if so, what methods are most frequently used to provide such schedules (*e.g.,* Web sites, paper schedules, telephonically)? We also seek comment on which make-ready jobs and charges are the most common, and thus most easily included in a generalized schedule of charges. In addition, we seek comment on any comparable state requirements that require utilities to publish or make available schedules of common make-ready charges. We also seek comment on whether there are other mechanisms currently in use, such as standardized contract terms, that provide the necessary information and transparency to the make-ready process.

35. *Reducing Make-Ready Charges.* We seek comment on reasonable ways to limit the make-ready fees charged by utilities to new attachers. Would it provide certainty to the make-ready process if the Commission adopted a rule limiting make-ready fees imposed on new attachers to the actual costs incurred to accommodate a new attachment? As part of the pole attachment complaint process, the Commission has held that utilities ''are entitled to recover their costs from attachers for reasonable make-ready work necessitated by requests for attachment. Utilities are not entitled to collect money from attachers for unnecessary, duplicative, or defective make-ready work.'' Would codifying the holding that new attachers are responsible only for the cost of make-ready work made necessary because of their attachments help to ensure that make-ready costs are just and reasonable?

36. We also seek comment on other alternatives for reducing make-ready costs. For example, would it be reasonable to allow utilities to set a standard charge per pole that a new attacher may choose in lieu of a cost-allocated charge? Should the choice belong to the utility or the new attacher? Would a per-pole charge of, for example, $300, $400, or $500 permit utilities to recover their reasonable make-ready costs and provide new attachers with an affordable alternative to negotiating with the utility over the applicable costs to be included in make-ready charges? We seek comment on the viability of such an approach. We also ask whether it would be reasonable to require utilities to reimburse new attachers for make-ready costs for improvements that subsequently benefit the utility (*e.g.,* the modification allows utilities to use additional space on a pole for its own uses or creates a vehicle for the utility to receive additional revenues from subsequent attachers). If so, then how would the new attachers and utilities manage that process? We seek comment on the potential tradeoffs of such an approach, which may help to keep make-ready costs low for new attachers, but also pose new challenges for utilities and new attachers to administer. We note that pursuant to section 1.1416(b) of the Commission's rules, attachers who directly benefit from a new pole or attachment already are required to proportionately share in the costs of that pole or attachment. The proportionate share of the costs attributable to the subsequent attacher is reduced to take into account depreciation to the pole that occurs after the modification. In adopting this requirement, the Commission ''intended to ensure that new entrants, especially small entities with limited resources, bear only their proportionate costs and are not forced to subsidize their later-entering competitors.'' Should we interpret (or modify) this rule to apply to utilities when make-ready improvements subsequently benefit the utility? Conversely, we seek comment on whether requiring utilities to pass a percentage of additional attachment benefits back to parties with existing attachments would result in a disincentive to add new competitors to modified poles.

37. We also seek comment on whether the Commission's complaint process provides a sufficient mechanism by which to ensure that make-ready costs are just and reasonable. Commenters arguing that the Commission's complaint process is not a sufficient limitation on make-ready costs should propose specific alternatives to ensure the reasonableness of make-ready charges and explain why the benefits of such alternatives would outweigh the burdens of a new Commission-imposed mandate for make-ready charges. Are there state regulatory approaches or alternatives governing the reasonableness of make-ready charges that the Commission should consider implementing?

2. Excluding Capital Expenses From Pole Attachment Rates

38. *Capital Expenses Recovered via Make-Ready Fees.* We propose to codify a rule that excludes capital costs that utilities already recover via make-ready fees from pole attachment rates. Almost forty years ago, the Commission found that ''where a utility has been directly reimbursed by a [cable television] operator for non-recurring costs, including plant, such costs must be subtracted from the utility's corresponding pole line capital account to insure that [cable television] operators are not charged twice for the same costs.'' Since that time, the Commission has made clear that ''[m]ake-ready costs are non-recurring costs for which the utility is directly compensated and as such are excluded from expenses used in the rate calculation.'' As such, ''if a utility is required to replace a pole in order to provide space for an attacher [and] the attacher pays the full cost of the replacement pole,'' the capital expenses associated with the installation of those poles should be wholly excluded from pole attachment rates for all attachers. Nonetheless, it appears that not all

attachers benefit from lower rates in these circumstances, in part because our rules do not explicitly require utilities to exclude already-reimbursed capital costs from their pole attachment rates. We seek comment on how utilities recalculate rates when make-ready pays for a new pole, what rate reductions pole attachers have experienced when poles are replaced through the make-ready process, and whether attachers have experienced the inclusion of already-reimbursed capital costs in their pole attachment rates. We similarly seek comment on how utilities treat capital expenses associated with their own make-ready work. When utilities replace poles to accommodate their own needs or to create additional electrical space, do they appropriately treat associated capital expenses as make-ready work that is wholly excluded from pole attachment rates? How do existing attachers know when new attachers or the utility have fully paid the capital expenses as make-ready costs so that those expenses should be wholly excluded from rates going forward?

39. We seek comment on whether amending section 1.1409(c) of our rules to exclude capital expenses already recovered via make-ready fees from ''actual capital costs'' is sufficient to ensure no double recovery occurs by utilities. We seek comment on whether any other changes to the Commission's rules are necessary and reasonable to provide certainty to attachers and utilities about the treatment of pole capital costs that already have been recovered via make-ready.

40. *Capital Costs Not Otherwise Recovered Via Make-Ready Fees.* We seek comment on whether we should exclude capital costs that are not otherwise recoverable through make-ready fees from the upper-bound cable and telecommunications pole attachment rates. In setting those rates, the Commission previously found it appropriate to allow utilities to include in the rates some contribution to capital costs aside from those recovered through make-ready fees. In revisiting this issue, we seek comment on the extent to which the capital costs of a pole, other than those paid through make-ready fees, are caused by attachers other than the utility (especially when there is space already available on the pole). If none or only a small fraction of the capital costs, other than those paid for through make-ready fees, are caused by attachers other than the utility, would this justify the complete exclusion of these capital costs from the pole attachment rate? To what extent would the exclusion of such capital costs further reduce pole attachment rates? To what extent would the exclusion of these particular capital costs from the rate formulas burden the ratepayers of electric utilities? What policy justifies charging pole attachers, whose costs of deployment may determine the scope of their investment in infrastructure, anything more than the incremental costs of attachment to utilities?

41. We note that although the rate formula for operators ''solely'' providing cable service sets an upper bound explicitly tied to ''actual capital costs,'' the rate formula for telecommunications carriers is tied only to ''costs.'' The Commission has previously interpreted the term ''cost'' in the latter formula to exclude at least some capital costs. Should we revisit this interpretation and interpret the term ''cost'' in the telecommunications pole attachment formula to exclude all capital costs? Would doing so avoid the awkward interpretation contained in our present rules that defines the term ''cost'' in two separate different ways at the same time?

42. Similarly, we note that our more general authority over pole attachments only requires that rates be ''just and reasonable.'' We seek comment on the appropriate rate for commingled services, including when a cable operator or a telecommunications carrier offers information services as well as cable or telecommunications services over a single attachment. Should we set that rate for commingled services based on the upper bound of the cable rate formula, the telecommunications rate formula, or some third option? Should we exclude capital costs from the rate formula we use to determine the commingled services rate? The cable rate formula also sets a lower bound of ''the additional costs of providing pole attachments.'' How would that differ from any of the rates discussed heretofore? Should we set the commingled services rate equal to the lower bound of the cable rate formula?

43. We seek comment on what specific amendments we should consider to section 1.1409 of our rules to effectuate any changes.

3. Pole Attachment Rates for Incumbent LECs

44. In the *2011 Pole Attachment Order,* the Commission declined to adopt a pole attachment rate formula for incumbent LECs, opting instead to evaluate incumbent LEC complaints on a case-by-case basis to determine whether the rates, terms, and conditions imposed on incumbent LEC pole attachments are consistent with section 224(b) of the Act. The Commission held that it is ''appropriate to use the rate of the comparable attacher as the just and reasonable rate for purposes of section 224(b)'' when an incumbent LEC enters into a new agreement with a utility and can demonstrate ''that it is obtaining pole attachments on terms and conditions that leave them comparably situated to telecommunications carriers or cable operators.'' Conversely, when the incumbent LEC attacher cannot make such a demonstration, the Commission found that a higher rate based on the Commission's pre-2011 telecommunications rate formula should serve as a ''reference point'' for evaluating whether pole attachment rates charged to incumbent LECs are just and reasonable. In the years since adoption, this formulation has led to repeated disputes between incumbent LECs and utilities over appropriate pole attachment rates.

45. To end this controversy, we propose that the ''just and reasonable rate'' under section 224(b) for incumbent LEC attachers should presumptively be the same rate paid by other telecommunications attachers, *i.e.,* a rate calculated using the most recent telecommunications rate formula. Under this approach, the incumbent LEC would no longer be required to demonstrate it is ''comparably situated'' to a telecommunications provider or a cable operator; instead the incumbent LEC would receive the telecommunications rate unless the utility pole owner can demonstrate with clear and convincing evidence that the benefits to the incumbent LEC far outstrip the benefits accorded to other pole attachers. We seek comment on this proposal. What demonstration should be sufficient to show that an incumbent LEC attacher should not be entitled to the telecommunications rate formula? For instance, should an incumbent LEC have to own a majority of poles in a joint ownership network? Should an incumbent LEC have to have special access to modify a utility's poles without prior notification? How should the relative rates charged to the utility and the incumbent LEC factor into the analysis? If an incumbent LEC has attachments on utility poles pursuant to the terms of a joint use agreement, should the incumbent LEC entitlement to the telecommunications rate be conditioned on making commensurate reductions in the rates charged to the utility for attaching to the incumbent LEC's poles? We also seek comment on the rate that should apply to incumbent LECs in the event the utility owner can demonstrate the telecommunications

rate should not apply. In these instances, should the Commission use the pre-2011 telecommunications rate formula? We also seek comment on an alternative pole attachment rate formula approaches for incumbent LECs. Commenters supporting alternative approaches should provide specific inputs and methodology that could be used in such a formula.

46. Given that the Commission based its decision in the *2011 Pole Attachment Order* to refrain from establishing pole attachment rates for incumbent LECs in part on the high levels of incumbent LEC pole ownership, we seek comment on the relative levels of pole ownership between utilities, incumbent LECs, and other industry participants. If pole ownership levels have changed, what bearing should that have on the rates charge to incumbent LECs?

C. Pole Attachment ''Shot Clock'' For Pole Attachment Complaints

47. *Establishing a 180-Day Shot Clock.* We propose to establish a 180-day ''shot clock'' for Enforcement Bureau resolution of pole access complaints filed under section 1.1409 of our rules. A ''pole access complaint'' is a complaint that alleges a complete denial of access to utility poles. This term does not encompass a complaint alleging that unreasonable rates, terms, or conditions that the utility demands as a condition of attachment (*e.g.,* adherence to certain engineering standards) amounts to a denial of pole access. We seek comment on this proposal. The *2011 Pole Attachment Order* noted that ''a number of commenters expressed concern about the length of time it takes for the Commission to resolve pole attachment complaints,'' but the Commission determined that the record at the time did not warrant the creation of new pole attachment complaint rules. We now seek comment on whether we should revisit that earlier conclusion by creating a shot clock and whether 180 days is a reasonable timeframe for the Enforcement Bureau to resolve pole access complaints. We note that under section 224(c)(3)(B) of the Act, a state that has asserted jurisdiction over the rates, terms, and conditions of pole attachments could lose the ability to resolve a pole attachment complaint if it does not take final action within 180 days after the complaint is filed with the state. Should this statutory time period for state resolution of a pole attachment complaint inform our consideration as to what constitutes a reasonable timeframe for Enforcement Bureau consideration of a pole attachment complaint? We additionally seek alternatives to the 180-day time period. For example, are there shorter state timelines for the resolution of pole attachment complaints? Would 150 days, 120 days, 90 days, or an even shorter timeframe be reasonable for the Enforcement Bureau to resolve a pole access complaint? What would be the benefits and drawbacks for a shorter timeframe for resolution of pole access complaints? Also, we seek comment regarding whether the current length of Enforcement Bureau consideration of pole access complaints has burdened broadband infrastructure deployment. How, if at all, would a shot clock (whether it be 180 days or some different time period) affect new attacher decisions to deploy broadband infrastructure? We seek comment on the ramifications of the Enforcement Bureau exceeding the shot clock and on reasonable consequences for the Enforcement Bureau exceeding the clock.

48. *Starting the Shot Clock at the Time a Complaint Is Filed.* We seek comment on when to start the proposed 180-day shot clock. We propose starting the shot clock at the time the pole access complaint is filed, as is the case for state complaints under section 224(c)(3)(B) of the Act, and we seek comment on this proposal. We also seek comment on alternatives that would start the shot clock later in the process, such as when a reply is filed by the complainant pursuant to section 1.1407(a) of our rules or, if discovery is requested, when discovery is complete. Starting the clock at these later junctures would allow the Enforcement Bureau sufficient time to review the relevant issues involved in a pole access complaint and would not disadvantage the timing of the Enforcement Bureau's review if the pleading cycle or discovery takes longer than expected. Are there instructive alternative starting points adopted by states for the initiation of their pole attachment complaint proceedings? If the shot clock does not start until sometime after a pole access complaint is filed, would it make sense to institute a shot clock that is shorter than 180 days?

49. *Pausing the Shot Clock.* We seek comment on whether the Enforcement Bureau should be able to pause the proposed shot clock for a reasonable time in situations where actions outside the Enforcement Bureau's control are responsible for delaying its review of a pole access complaint. In the transactions context, the reviewing Bureau pauses the shot clock when the parties need additional time to provide key information requested by the Bureau. We propose to allow the Enforcement Bureau the discretion to pause the shot clock in that situation, as well as when the parties decide to pursue informal dispute resolution or request a delay to pursue settlement discussions after a pole access complaint is filed. We ask whether these are valid reasons to pause the shot clock, and we seek comment on objective criteria for the Enforcement Bureau to use in deciding whether such situations are significant enough to warrant a pause in the shot clock. We also seek comment on when the Enforcement Bureau should resume the shot clock. Are there objective criteria that the Enforcement Bureau could use to judge the satisfactory resolution of an outstanding issue such that the shot clock could be resumed? Further, we propose to alert parties to a pause in the shot clock (and to a resumption of the shot clock) via written notice to the parties. We seek comment on this proposal.

50. *Establishment of Pre-Complaint Procedures.* We seek comment on whether we should require the parties to resolve procedural issues and deadlines in a meeting to be held either remotely or in person prior to the filing of the pole access complaint (and prior to the starting of the shot clock). We seek comment on the types of issues that the parties should resolve in a pre-complaint meeting. We note that it has been our standard practice to request that parties participate in pre-complaint meetings in order to resolve procedural issues and deadlines; we find that the complaint process has proceeded much more smoothly as a result. We seek comment on the benefits and drawbacks of requiring a pre-complaint meeting and ask whether there are any state pre-complaint procedures that could inform the rules that we develop.

51. *Use of Shot Clock for Other Pole Attachment Complaints.* We seek comment on whether the Commission should adopt a 180-day shot clock for pole attachment complaints other than those relating to access. We also request comment on whether the length of time to resolve other pole attachment complaints has stymied the deployment of broadband infrastructure. We additionally seek comment on reasonable alternatives to a 180-day shot clock and ask whether there are state shot clocks for other pole attachment complaints that could help inform our review. Should the procedures set forth above for pole access complaints also apply to other pole attachment complaints? What alternatives could we adopt that would further streamline the pole attachment complaint process?

D. Reciprocal Access to Poles Pursuant to Section 251

52. *Background.* Section 251 of the Act provides that ''[e]ach local exchange carrier'' has the duty ''to afford access to the poles, ducts, conduits, and rights-of-way of such carrier to competing providers of telecommunications services on rates, terms, and conditions that are consistent with section 224 [of this Act].'' Section 224(a) defines a ''utility'' that must provide telecommunications carriers nondiscriminatory pole access at regulated rates to include both incumbent LECs and competitive LECs. However, the definition of ''telecommunications carrier'' used in section 224 ''does not include'' incumbent LECs, thus denying incumbent LECs the benefits of section 224's specific protections for carriers.

53. According to CenturyLink, the disparate treatment of incumbent LECs and competitive LECs in section 224(a) prevents incumbent LECs from gaining access to competitive LEC-controlled infrastructure and in doing so dampens the incentives for all local exchange carriers to build and deploy the infrastructure necessary for advanced services. The Commission initially examined this issue during its implementation of the 1996 Act in the *1996 Local Competition Order,* where it determined that section 251 cannot ''[restore] to an incumbent LEC access rights expressly withheld by section 224.'' The Ninth Circuit Court of Appeals disagreed in dicta, noting that sections 224 and 251 could ''be read in harmony'' to support a right of access for incumbent LECs on other LEC poles. Despite its skepticism of the Commission's analysis in the *1996 Local Competition Order*, the Ninth Circuit held it was obligated to adhere to that analysis because the parties had not directly challenged the *1996 Local Competition Order* via the Hobbs Act. CenturyLink requests the Commission revisit our interpretation. Other commenters in the latest Biennial Review contend that the Commission's interpretation remains valid given incumbent LECs' ''first-mover advantage'' and ''the ability of large incumbent LECs to abuse their market positions to foreclose competition.''

54. *Discussion.* We seek comment on reading the statutes in harmony to create a reciprocal system of infrastructure access rules in which incumbent LECs, pursuant to section 251(b)(4) of the Act, could demand access to competitive LEC poles and vice versa, subject to the rates, terms, and conditions described in section 224. Further, we seek comment on necessary amendments to our rules to effectuate the changed interpretation in the event we decide to do so. We also seek comment on how similar the rules for incumbent LEC access under section 251 must be to those for other carriers under section 224 for the rules to be ''consistent'' with each other.

55. Additionally, we seek comments and data that will help establish how often incumbent LECs request access to competitive LEC infrastructure. How often do incumbent LECs request access to infrastructure controlled by competitive LECs, how frequently are incumbent LECs denied access, and how much of an effect does this have on competition and broadband deployment? Would the frequency of incumbent LEC requests for access to competitive LEC poles change if we decide to change our interpretation, and how would that impact broadband deployment?

III. Expediting the Copper Retirement and Network Change Notification Process

56. Section 251 of the Act imposes specific obligations on incumbent LECs to promote competition so as to allow industry to bring ''increased innovation to American consumers.'' To that end, section 251(c)(5) and the Commission's part 51 implementing rules require incumbent LECs to provide public notice of network changes, including copper retirement, that would affect a competing carrier's performance or ability to provide service. We propose revisions to our Part 51 network change disclosure rules to allow providers greater flexibility in the copper retirement process and to reduce associated regulatory burdens, to facilitate more rapid deployment of next-generation networks. We also seek comment on streamlining and/or eliminating provisions of the more generally applicable network change notification rules.

A. Copper Retirement

57. We seek comment on revisiting our copper retirement and notice of network change requirements to reduce regulatory barriers to the deployment of next-generation networks. First, we seek comment on eliminating some or all of the changes to the copper retirement process adopted by the Commission in the *2015 Technology Transitions Order.* We seek comment on the Commission's authority to impose the copper retirement notice requirements adopted in the *2015 Technology Transitions Order.* Among other things, the new rules doubled the time period during which an incumbent LEC must wait to implement a planned copper retirement after the Commission's release of public notice from 90 days to 180 days, required direct notice to retail customers, states, Tribal entities, and the Secretary of Defense, and expanded the types of information that must be disclosed.

58. *Repeal of Section 51.332 and Return to Prior Short-Term Network Change Notification Rule.* We seek comment on how best to handle incumbent LEC copper retirements going forward to prevent unnecessary delay and capital expenditures on this legacy technology while protecting consumers. First, we seek comment on eliminating section 51.332 entirely and returning to a more streamlined version of the pre-*2015 Technology Transitions Order* requirements for handling copper retirements subject to section 251(c)(5) of the Act. Specifically, prior to the *2015 Technology Transitions Order,* incumbent LEC copper retirement notices of less than six months were regulated under the more flexible Commission rule that applied to short-term network change notices. We seek comment on whether to repeal section 51.332 and whether to reinstate the prior copper retirement notice rules. Have the delays and increased burdens introduced by the revised rules hindered next-generation network investment? Have the changes been effective in protecting competition and consumers? What are their costs and benefits? Would adopting our pre-2015 rule, without modification, provide incumbent LECs with sufficient flexibility to facilitate their transition to next-generation networks? Should we retain our existing rule in substantially similar format?

59. The *2015 Technology Transitions Order* eliminated the process by which competitive LECs can object to and seek to delay an incumbent LEC's planned copper retirement when it increased the ''deemed approved'' timeframe from 90 to 180 days. If we return incumbent LEC copper retirements to the prior network notification process, should we nonetheless retain this change, and, if so, how should we incorporate it into our rules? Is some other notice timeframe more appropriate?

60. The *2015 Technology Transitions Order* also adopted an expanded definition of copper retirement that added (1) the feeder portion of copper loops and subloops, previously excluded, and (2) ''the failure to maintain copper loops, subloops, or the feeder portion of such loops or subloops that is the functional equivalent of removal or disabling''—*i.e.,* de facto

retirement. Maintenance of existing copper facilities remains a concern when an incumbent LEC does not go through the copper retirement process. If we return incumbent LEC copper retirements to the prior network notification process, should we nonetheless retain this expanded definition?

61. The *2015 Technology Transitions Order* also broadened the recipients of direct notice from ''each telephone exchange service provider that directly interconnects with the incumbent LEC's network'' to ''each entity within the affected service area that directly interconnects with the incumbent LEC's network.'' It also added a notice requirement to the Secretary of Defense as well as the state public utility commission, Governor of the State, and any Tribal entity with authority over Tribal lands in which the copper retirement is proposed. Have these direct notice changes adopted by the Commission meaningfully promoted facilities investment or preserved competition in the provision of next-generation facilities, and what costs have the changes imposed? Have these direct notice changes meaningfully promoted understanding and awareness of copper retirements and their impacts, and what have been the benefits of these changes? Returning to a version of our pre-2015 copper retirement rules would reduce the number of direct notice recipients from ''each entity'' to ''each telephone exchange service provider,'' and eliminate the other expanded notice requirements from the *2015 Technology Transitions Order.* We seek comments on the effects of such a change.

62. *Full Harmonization with General Network Change Notification Process.* Alternatively, we seek comment on eliminating all differences between copper retirement and other network change notice requirements, rendering copper retirement changes subject to the same long-term or, where applicable, short-term network change notice requirements as all other types of network changes subject to section 251(c)(5). Even under the Commission's rules prior to the *2015 Technology Transitions Order,* there were differences in the treatment of copper retirements and other short-term network change notices. Whereas short-term network change notices become effective ten days after Commission issuance of a public notice, copper retirement notices became effective ninety days thereafter. Moreover, an objection to a copper retirement notice was deemed denied 90 days after the Commission's public notice absent Commission action on the objection, while there is no ''deemed denied'' provision for other short-term network change objections. Is there a basis to continue to have a different set of network change requirements for copper retirement? In this regard, we note that the transition from copper to fiber has been occurring for well more than a decade now. We anticipate that interconnecting carriers are aware that copper retirements are inevitable and that they should be familiar by now with the implications of and processes involved in accommodating such changes. We seek comment on this expectation.

63. *Modification of section 51.332.* A second alternative to eliminating section 51.332 entirely would be to retain but amend section 51.332 to streamline the process, provide greater flexibility, and reduce burdensome requirements for incumbent LEC copper retirements. We seek comment on how we should change the rule to afford flexibility and maximize incentives to deploy next-generation facilities. We seek comment on whether we should adopt these changes, and whether additional or different changes should also be adopted:

- Requiring an incumbent LEC to serve its notice only to telephone exchange service providers that directly interconnect with the incumbent LEC's network, as was the case under the predecessor rules, rather than ''each entity within the affected service area that directly interconnects with the incumbent LEC's network.''
- Reducing the waiting period to 90 days from 180 days after the Commission releases its public notice before the incumbent LEC may implement the planned copper retirement.
- Providing greater flexibility regarding the time in which an incumbent LEC must file the requisite certification.
- Reducing the waiting period to 30 days where the copper facilities being retired are no longer being used to serve any customers in the affected service area.

Should we adopt different timing thresholds than those specified above, and if so, what thresholds and why would different thresholds be better? Should we reduce the waiting period to one month and remove the notification requirements in emergency situations? Should we modify the existing requirements for the content of the notice, and if so, how? Have competitive LECs availed themselves of the good faith communication requirement, and if so, has that requirement caused any difficulties? If we eliminate the good faith communication requirement, should we include an objection period, and what form should it take? Alternatively, should we retain the good faith communication requirement and not include an objection period?

64. If we modify section 51.332, we seek comment on eliminating the requirement that incumbent LECs provide direct notice of planned copper retirements to retail customers, both residential and non-residential. Specifically, we seek comment on eliminating sections 51.332(b)(3), (c)(2), (d)(6)–(8), and (e)(3)–(4). What would be the likely impact of eliminating such notice to consumers, including consumers who have disabilities and senior citizens? How do the benefits of notification compare with the costs in terms of slower transitions to next-generation networks? Are there alternative ways in which the Commission can streamline these retail customer notice rules to make the process more flexible and less burdensome on carriers retiring their copper, while still ensuring consumers are protected? Finally, how, if at all, should we modify the requirements for providing notice under current section 51.332(b)(4) to the states, Tribal entities, and the Secretary of Defense?

65. *Additional Considerations.* We seek comment on additional methods by which we can provide further flexibility in the copper retirement process in conjunction with or separate from the proposals described above while still affording interconnecting entities and other impacted parties the notice they need. For instance, should the Commission consider an even shorter waiting period in certain circumstances, and if so, in what circumstances and how much shorter? How, if at all, should that affect the timing for filing the required certification? Are there any other measures we could take to make the copper retirement process less burdensome on carriers? Are there any other measures we could take to make the copper retirement process more helpful for consumers and other impacted parties? Are any technical changes to our rules necessary to accommodate reforming the copper retirement process? For example, should we revise section 51.329(c)(1) to eliminate the titles specific to copper retirement notices, if there would no longer be a defined term?

B. Network Change Notifications Generally

66. Next, we seek comment on methods to reduce the burden of our network change notification processes generally. The Commission's network

change notification process is the process by which incumbent LECs provide ''reasonable public notice of changes in the information necessary for the transmission and routing of services using that local exchange carrier's facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks.'' Aside from the copper retirement notice expansions adopted by the *2015 Technology Transitions Order,* we last revisited our general section 251(c)(5) rules in 2004. Do changes to the telecommunications marketplace since that time warrant changes to these rules, more generally, and if so, what changes? We seek comment on two specific changes below and invite commenters to identify other possible reforms to our network change notification processes.

67. *Section 51.325(c).* We specifically propose eliminating section 51.325(c) of our rules, which prohibits incumbent LECs from disclosing any information about planned network changes to affiliated or unaffiliated entities prior to providing public notice. We seek comment on this proposal. This prohibition appears to unnecessarily constrain the free flow of useful information that such entities may find particularly helpful in planning their own business operations. We seek comment on this view. Alternatively, we could revise section 51.325(c) of our rules to permit disclosures to affiliated and unaffiliated entities, but only to the extent that the information disclosed is what the incumbent LEC would include in its required public notice under section 51.327. A third possibility would be to revise section 51.325(c) to allow such disclosure, but only to the extent the carrier makes such information available to all entities that would be entitled to direct notice of the network change in question. We seek comment on these proposals and any other alternative approaches. If we permit disclosure to affiliated or unaffiliated entities prior to public notice, should we specify any particular timeframe within which public notice must follow?

68. What are the potential advantages and disadvantages of eliminating or revising section 51.325(c)? When this rule was first adopted, the goal was to prevent ''preferential disclosure to selected entities.'' Are these concerns still warranted? We anticipate that providing incumbent LECs greater flexibility to disclose information and discuss contemplated changes before cementing definitive plans would benefit these carriers, interconnecting carriers, and any other interested entities to which disclosure may be useful by providing all such entities greater time to consider or respond to possible network changes. We seek comment on this expectation. To the extent that concerns about some entities receiving advanced notice remain warranted, do any of the specific revisions proposed above obviate such concerns, and if not, what approach can we adopt to address such concerns while still introducing additional flexibility?

69. *Objection Procedures.* Should we revise or eliminate the procedures set forth in section 51.333(c) of the Commission's rules by which a telecommunications service provider or information service provider that directly interconnects with the incumbent LEC's network may object to the timing of short-term network changes? What costs, if any, has the uncertainty introduced by this procedure imposed? What public interest benefits are associated with this requirement? Have competitive LECs made use of this procedure? Should we adopt a ''deemed denied'' timeframe with respect to objections on which the Commission has not acted within some specified timeframe? Should we revise the objection procedure in any other way?

C. Section 68.110(b)

70. We seek comment on eliminating or modifying section 68.110(b) of our rules, which requires that ''[i]f . . . changes [to a wireline telecommunications provider's communications facilities, equipment, operations or procedures] can be reasonably expected to render any customer's terminal equipment incompatible with the communications facilities of the provider of wireline telecommunications, or require modification or alteration of such terminal equipment, or otherwise materially affect its use or performance, the customer shall be given adequate notice in writing, to allow the customer an opportunity to maintain uninterrupted service.'' We seek comment on the benefits and costs of the current rule and whether the benefits outweigh the costs. How is such notice under that rule provided today, and specifically, how would a carrier be able to know whether ''any'' terminal equipment would be affected? Do customers still rely on or benefit from the notice required by section 68.110(b)? To what extent do individuals with disabilities still rely on TTYs or other specialized devices or services in an analog environment? To what extent have individuals with disabilities adopted alternative means of communications, whether using telecommunications relay services, texting, videophones, or other online communications? To what extent have such individuals relied on terminal-equipment-incompatibility notices in the past, and are alternative means available that would be more effective at targeting affected individuals with disabilities? We seek comment on the benefits and costs of the current rule and whether the benefits outweigh the costs. Alternatively, should the rule be retained but certain types of changes categorically exempted? The Commission's current copper retirement rules require incumbent LECs to certify compliance with section 68.110(b). If we eliminate section 68.110(b), we propose eliminating this certification requirement, and we seek comment on this proposal.

IV. Streamlining the Section 214(a) Discontinuance Process

71. Among other things, section 214(a) requires carriers to obtain authorization from the Commission before discontinuing, reducing, or impairing service to a community or part of a community. Note that for convenience, in certain circumstances this *NPRM* uses ''discontinue'' (or ''discontinued'' or ''discontinuance,'' etc.) as shorthand that encompasses the statutory terms ''discontinue, reduce, or impair'' unless the context indicates otherwise. With respect to section 214(a)'s discontinuance provision, generally, and the Commission's implementing rules specifically, carriers have asserted ''that exit approval requirements are among the very most intrusive forms of regulation.'' In this section, we seek comment on targeted measures to shorten timeframes and eliminate unnecessary process encumbrances that force carriers to maintain legacy services they seek to discontinue.

72. We believe that modifying our discontinuance processing for legacy systems to reduce burdens and protect customers will facilitate carriers' ability to retire legacy network infrastructure and will accelerate the transition to next generation IP-based networks. We seek comment on this view.

A. Applications That ''Grandfather'' Existing Customers

73. *Streamlining the Public Comment Period.* We propose to streamline the section 214(a) discontinuance process for applications that seek authorization to ''grandfather'' low-speed legacy services for existing customers. ''Grandfathering'' a service in section

214 parlance means that a carrier requests permission to stop accepting new customers for the service while maintaining service to existing customers. We specifically propose to reduce the public comment period to a uniform 10 days for all applications seeking to grandfather legacy low-speed services regardless of whether the provider filing the application is a dominant or non-dominant carrier. We seek comment on this proposal.

74. As a threshold matter, we seek comment on whether expediting the review and authorization of applications to grandfather low-speed services offers benefits to discontinuing carriers generally. Will grandfathering a particular service create greater regulatory parity for telecommunications carriers compared to other segments of the industry? What sort of costs does such a requirement impose on carriers and customers relative to the benefits it imparts? We believe that section 214 provides us ample authority to implement the streamlining measures we propose. We seek comment on this belief.

75. More specifically, we seek comment on the streamlined 10-day comment period we have proposed. Will this comment period allow adequate time for interested parties to review and consider discontinuance applications from carriers and to file comments on these applications, if necessary? Is there a different time period we should consider, *e.g.,* some temporal interval that is either shorter or longer than the 10-day comment period we have proposed? Should we reduce the time period for reviewing and granting applications to grandfather higher-speed services as well, and if so, how? While we have proposed to subject applications from both dominant and non-dominant carriers to a uniform 10-day comment period, we seek comment on whether there is reason to maintain disparate comment periods for dominant versus non-dominant carriers in this context?

76. *Streamlining the Auto-Grant Period.* We propose that all applications seeking to grandfather low-speed legacy services be automatically granted on the 25th day after public notice unless the Commission notifies the applicant that such a grant will not be automatically effective. Under our current rules, an application by a domestic, dominant carrier will be automatically granted on the 60th day after its filing unless the Commission notifies the applicant that the grant will not be automatically effective, whereas an application by a domestic, non-dominant carrier will be automatically granted on the 31st day after its filing unless the Commission notifies the applicant that the grant will not be automatically effective. We seek comment on this proposal. Like our proposed uniform 10-day comment period for all applications to grandfather low-speed legacy services, we see no reason to maintain disparate auto-grant periods for such applications. Will this streamlined auto-grant period for carriers allow adequate time for the Commission and other parties to review their applications? Will the shorter auto-grant period incent providers to more rapidly resolve end-user concerns, if any?

77. Is there a different auto-grant period we should consider when reviewing applications to grandfather low-speed services, periods that are either shorter or longer than the 25-day interval we have proposed? Is there reason to maintain disparate auto-grant periods for dominant versus non-dominant carriers rather than subject both types of carriers to a uniform auto-grant period as we have proposed to do? Alternatively, what role should an objection from a potential customer or other interested party take in the application for grandfathering? Should such an objection result in an application being taken off of streamlined treatment?

78. In addition to potentially reducing the auto-grant period for applications seeking to grandfather low-speed services, we seek comment on whether to adopt an even more abbreviated auto-grant period for grandfathered discontinuance applications that receive no comments during the specified comment period. In conjunction with our efforts to expedite the automatic granting of these applications, we seek comment on whether we should establish a ''shot-clock'' applicable to the time period within which the Commission receives applications to grandfather low-speed legacy services and when the Commission releases the Public Notice seeking comment on such applications. Have carriers filing section 214 discontinuance applications experienced seemingly unreasonable delay between the time the Commission receives their applications and when they are placed on Public Notice?

79. *Eligibility of Grandfathered Services for Streamlined Processing.* We seek comment on the scope of services to which streamlined processing would apply. We propose, at a minimum, to apply any streamlined discontinuance process to grandfathered low-speed TDM services at lower-than-DS1 speeds (below 1.544 Mbps), as these are services that are rapidly being replaced with more advanced or higher-speed IP-based services. We seek comment on whether this is an appropriate speed threshold, or whether higher-speed grandfathered services—*e.g.,* any legacy copper-based or other TDM services below 10 Mbps or 25 Mbps or even higher—should also qualify for this more streamlined processing. Should we limit our streamlined comment and auto-grant periods to a narrower set of circumstances than we propose? Should we adopt a separate sets of auto-grant periods for lower and higher speed services? Are there other service characteristics we should consider besides speed in deciding which applications may qualify for streamlined comment and auto-grant periods?

80. *Additional Steps.* Beyond condensing the comment and auto-grant periods, we seek comment on any additional steps we might take to further streamline the review and approval process for applications to grandfather low-speed services. We specifically seek comment on whether there are certain circumstances under which applications to grandfather low-speed legacy services could be granted once the application is accepted for filing without any period of public comment or under which we should dispense with requiring applications entirely. Does the Commission have authority under section 214(b) to permit grants without any period of public comment or to determine that an application is not necessary? Would limited forbearance from the requirements of section 214 be necessary to dispense with requiring an application or to grant certain applications without any period of public comment, and if so, are the criteria for forbearance met in this instance? Would pursuing either of these options harm existing or potential customers, and if so, do those harms outweigh the benefits of streamlining?

81. If the Commission grants certain applications to grandfather low-speed services without a period of public comment, what criteria should applications satisfy in order to qualify for such a grant? For example, there may be cases in which the carrier has not sold the service to any new customer for a particular period of time and only a limited number of existing customers continue to take the service, and we seek comment on whether there is a particular period of time and/or number of customers that warrants automatic grant without a comment period. Should such grants be contingent on a baseline showing, attestation, or affirmative statement in a carrier's application that there are reasonable alternatives to the service that is to be grandfathered? If so, what type of

certification or showing should be required?

82. *Government Users.* Finally, we seek comment on how we should take into account the needs of federal, state, local, and Tribal government users of legacy services in deciding whether and how best to streamline the process for reviewing section 214 applications that seek to grandfather low-speed services. The National Telecommunications and Information Administration (NTIA) has stated that federal government agencies face particular challenges as customers of telecommunications services and are different from many other customers given the budget and procurement challenges they face and ''the mission-critical activities they perform for the public benefit.'' In its Petition, NTIA asserts that government agencies must make budgetary and technical plans far in advance to convert or adapt their networks, systems, and services to new infrastructure. We agree with NTIA that transitions from the provision of old communications services to new ''must not disrupt or hamper the performance of mission-critical activities, of which safety of life, emergency response, and national security are the most prominent examples.'' Further, Assignment of National Security and Emergency Preparedness Communications Functions, Exec. Order 13,618, 3 CFR 273 (July 6, 2012), states the following as policy of the United States: ''The Federal Government must have the ability to communicate at all times and under all circumstances to carry out its most critical and time sensitive missions. Survivable, resilient, enduring, and effective communications, both domestic and international, are essential to enable the executive branch to communicate within itself and with: the legislative and judicial branches; State, local, territorial, and tribal governments; private sector entities; and the public, allies, and other nations. Such communications must be possible under all circumstances to ensure national security, effectively manage emergencies, and improve national resilience. The views of all levels of government, the private and nonprofit sectors, and the public must inform the development of national security and emergency preparedness (NS/EP) communications policies, programs, and capabilities.'' To the extent these proposed rules accelerate retirement of systems for national security emergency preparedness (NS/EP) communication, we seek comment on the impact to these capabilities. In particular, we seek comment on what will be the impact to NS/EP priority services such as the Government Emergency Telecommunications Service (GETS) and the Telecommunications Service Priority (TSP) system? How will accelerating copper retirement impact these policy goals? Should section 214 applications demonstrate how priority services will continue to be provisioned to government users? How will the transition from the provision of old services to new ones affect other national security interests? How should we take into account the needs of potential government and Tribal customers when considering whether and how to streamline the comment and/or auto-grant periods for applications to grandfather legacy services? Should applications affecting government end users be eligible for any streamlined process we adopt? If we adopt special requirements in relation to applications that may affect government or Tribal users, how can we identify such applications, given that grandfathering affects only non-customers of the service at issue?

83. NTIA suggests that the Commission must ensure that carriers provide information to federal agencies, including the direction and pace of any network changes, so that agencies are able to plan and fund the service, equipment, and systems upgrades needed to maintain critical operations without interruption. NTIA asks that the Commission require carriers to state in their section 214 discontinuance applications: (1) whether and to what extent they have discussed the proposed network or service change with affected federal customers; and (2) what actions they have taken or what plans, if any, they have made to ensure the continuity of mission-critical agency communications networks, systems, and services.

84. We seek comment on this proposal both in general and in the context of our section 214 proposals herein. How would such requirements benefit federal customers, and would such requirements benefit others in the communications ecosystem? How could we measure compliance with any such requirements? Would such requirements prove unduly burdensome on carriers relative to any potential benefit for government users? We seek comment on whether the service agreements or contracts into which carriers enter with government entities could sufficiently include provisions that address the types of concerns NTIA raises generally. With respect to grandfathering, would prong (1) of NTIA's proposed certification have any relevance since it is addressed to present customers, and how could carriers undertake the consultation described in prong (2)? Are there specific concerns applicable to Tribal, state, or local government customers? If so, would the NTIA proposal address them? If not, what additional or alternative steps would?

B. Applications To Discontinue Previously Grandfathered Legacy Data Services

85. We propose to streamline the discontinuance process for any application seeking authorization to discontinue legacy data services that have previously been grandfathered for a period of no less than 180 days. We propose to adopt a streamlined uniform comment period of 10 days and an auto-grant period of 31 days for both dominant and non-dominant carriers. We seek comment on these proposals and on other potential alternatives. We believe that section 214 provides us ample authority to streamline the process for reviewing and granting applications to discontinue legacy data services that have previously been grandfathered for a period of at least 180 days. Do commenters agree with this conclusion? Why or why not?

86. Should this proposed streamlined process be restricted to only previously grandfathered legacy data services below a certain speed? Should dominant and non-dominant carriers continue to be subject to different comment and auto-grant timeframes for discontinuing legacy data services that have previously been grandfathered, as is currently the case? If so, what should these timeframes be? We encourage commenters to advance specific alternative proposals they believe would better address the Commission's objective to accelerate the deployment of next-generation networks by eliminating unnecessary delays in the discontinuance process. To that end, are there other steps we could take, beyond condensing the comment and auto-grant periods, which would help streamline the review and authorization of applications to discontinue legacy data services that have previously been grandfathered? Please explain.

87. We propose to require carriers seeking this streamlined discontinuance processing for legacy data services to make a showing that they received Commission authority to grandfather such services at least 180 days previously. Is the 180-day grandfathering requirement too restrictive? Should we consider a shorter grandfathering timeframe? Should we require any additional showings to qualify for this streamlined treatment? For example, should we

require a statement identifying one or more alternative comparable data services available from the discontinuing provider or a third party provider at the same or higher speeds as the service being discontinued? If so, how should we define ''comparable'' service? Should we require that any such ''comparable'' service be available throughout the entire affected service area?

88. We also propose to require only a statement from the discontinuing carrier demonstrating that it received Commission authority to grandfather the services at issue at least 180 days previously. Is a statement sufficient, or should some other showing be required? If commenters believe we should require more than a statement, what type of showing should a carrier be obligated to make? If we adopt a requirement that carriers must demonstrate the availability of one or more alternative comparable data services from the discontinuing provider or a third party, would a statement identifying such alternative services be sufficient to satisfy this requirement? For carriers seeking to rely on a third-party service, what type of showing would be necessary to demonstrate the existence of alternative data services? Would such a statement suffice for this purpose?

89. Finally, we seek comment on whether special consideration should be given to applications seeking to discontinue previously grandfathered legacy data services to federal, state, local, and Tribal government users for the same reasons we address this question in considering streamlining grandfathered and legacy voice service discontinuance applications. Should providers be required to make some additional showing beyond what we have proposed when seeking to discontinue previously grandfathered legacy data services to government users? If so, with what additional conditions should they be required to comply and why?

C. Clarifying Treatment Under Section 214(a) of Carrier-Customers' End Users

90. We seek comment on reversing the Commission's 2015 ''clarification'' of section 214(a) that substantially expanded the scope of end users that a carrier must consider in determining whether it is required to obtain section 214 discontinuance authority. In the *2015 Technology Transitions Order,* the Commission ''provided guidance and clarification'' that section 214(a) of the Act applies not only to a carrier's own retail customers, but also to the retail end-user customers of that carrier's wholesale carrier-customers. We seek comment on our proposal to reverse the 2015 interpretation and, going forward, interpret section 214(a) to require a carrier to take into account only its own retail end users when evaluating whether the carrier will ''discontinue, reduce, or impair service to a community, or part of a community.''

91. We seek comment on the practical effect of the 2015 interpretation. What benefits flow to the retail end-user customers of the carrier's wholesale carrier customers as a result of that interpretation? Does it make sense to take away those benefits? Does it make sense to maintain a regulatory obligation that requires a carrier, most often an incumbent LEC, to obtain information about third parties, *i.e.,* its carrier-customer's retail end users, with whom it generally has no relationship, before it can execute its own business plans to discontinue its service? What can the upstream carrier be expected to know about who the end-user customers of its carrier-customers are and how the discontinuance will affect them? Does the current application of the requirement impose undue compliance costs and burdens on a discontinuing carrier that harm the public by delaying the transition to newer, more technologically advanced services? Or, are those costs reasonable in light of the potential harm to end-user customers? Have there been other effects on the market for legacy services and on the transition to IP services that we should consider?

92. We also seek comment on how carrier-customers' discontinuance obligations should inform our interpretation. What weight should we give to the fact that a carrier-customer is itself obligated to file a discontinuance application under section 214(a) of the Act and section 63.71 of the Commission's rules if it discontinues, reduces, or impairs service as a result of the loss of a wholesale input from an upstream carrier? Can we find that the objectives of section 214(a) are met because the carrier-customer itself is subject to section 214(a)'s requirement to obtain Commission approval if a change in the inputs relied on by the carrier-customer results in a discontinuance, reduction, or impairment of services to the carrier-customer's retail end users? Or, are there situations in which end-user customers would be inadequately protected by such an interpretation? Do the contractual and business relationships between upstream carriers and their carrier-customers provide additional safeguards to retail end users?

93. We also seek comment on the relationship between sections 214(a) and 251(c)(5) of the Act. When section 214(a) was enacted during World War II, ''one of Congress's main concerns was that [domestic telegraph] mergers might result in a loss or impairment of service during this war time period.'' By contrast, 53 years later, Congress revised the Act ''to promote competition and reduce regulation . . . and encourage the rapid deployment of new telecommunications technologies.'' Congress enacted section 251(c)(5) of the Act to require incumbent LECs to ''provide reasonable public notice of changes in the information necessary for the transmission and routing of services using that local exchange carrier's facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks.'' The Commission's regulations implementing section 251(c)(5), require, among other things, that an incumbent LEC ''must provide public notice regarding any network change that [w]ill affect a competing service provider's performance or ability to provide service.'' In enacting section 251(c)(5), did Congress signal its intent that incumbent LECs need only provide notice, not obtain approval, when making changes to wholesale inputs relied upon by competing carriers? At the time of the 1996 Act, the Commission interpreted its section 214(a) discontinuance authority not to apply to wholesale customers. Did that interpretation have any bearing on Congress's intent when enacting section 251(c)(5)? How should we reconcile the Congressional mandates in sections 214(a) and 251(c)(5) of the Act to best eliminate regulatory barriers to the deployment of next-generation networks and services, avoid unnecessary capital expenditure on legacy services, and protect consumers and the public interest? Alternatively, was the Commission's statutory interpretation in the *2015 Technology Transitions Order* correct? Are there other interpretations of the interaction between these two provisions that would be more consistent with Congressional intent? If so, what are they?

94. Finally, we seek comment on whether the Commission correctly interpreted the precedent upon which it relied to support its expansive 2015 clarification. Prior to the *2015 Technology Transitions Order,* it appears that the Commission had held that discontinuances to wholesale purchasers were not cognizable under section 214(a). The *2015 Technology Transitions Order* acknowledges that

distinction, stating in a footnote that ''[t]he Commission will . . . continue to distinguish discontinuance of service that will affect service to retail customers from discontinuances that affect only the carrier-customer itself.'' Relying on BellSouth Telephone, however, the Commission adopted the view that upstream carriers have responsibility for carrier-customers' end-user customers under section 214(a). Did the Commission correctly interpret BellSouth Telephone, particularly in light of the facts of that case? Did the Commission incorrectly read BellSouth Telephone to protect the business models of certain downstream retail carriers, regardless of the availability of the same or comparable alternatives in the community? All of the other cases cited in the *2015 Technology Transitions Order* found that section 214(a) did not apply. Accordingly, did the Commission properly interpret and rely on those cases? Considering that all but one of the cases predated the adoption of the 1996 Act and its specific protections for wholesale customers, including section 251(c)(5), what continuing probative value do the cases have? Indeed, the only Commission precedent cited in the *2015 Technology Transitions Order* that postdated the 1996 Act did not explicitly consider the applicability of section 251(c)(5). Did the Commission grant to carrier-customers in 2015 rights beyond Congress's intent in the 1996 Act in an attempt to protect carrier-customers' end users, even though those end users have the benefit of the section 214(a) discontinuance process from their own provider? What is the proper interplay between sections 251 and 214 in this context?

D. Other Part 63 Proposals

95. *Further Streamlining of 214(a) Discontinuances.* In addition to the proposals discussed above, we seek comment on methods to streamline section 214(a) applications more generally. Specifically, we seek comment on whether it would be appropriate for the Commission to conclude that section 214(a) discontinuances will not adversely affect the present or future public convenience and necessity, provided that fiber, IP-based, or wireless services are available to the affected community. What type of showing would be required on the part of discontinuing carriers to demonstrate the existence of alternative services? What types of fiber, IP-based, or wireless services would constitute acceptable alternatives, and under what circumstances? Would a demonstration regarding the availability of third-party services satisfy this kind of test, or would only services offered by the discontinuing carrier suffice?

96. We also seek comment on the best approach for granting streamlined treatment to these types of discontinuances. In circumstances where a discontinuing carrier's service overlaps with an alternative fiber, IP-based, or wireless service, should we require a section 214 discontinuance application? If not, should we either grant limited blanket discontinuance authority or forbear on a limited basis from section 214? If we require an application, would a grant of the section 214 application upon acceptance for filing be appropriate or would allowing for public notice and comment be necessary to satisfy the requirements of section 214(a)? If we maintain a comment period, should we reduce the comment and automatic grant timeframe? As another alternative, should we instead require carriers to file only a notice of discontinuance accompanied by proof that fiber, IP-based, or wireless alternatives are available to the affected community, in lieu of a full application for approval? If so, what proof would suffice, and how should the Commission review that filing?

97. *Section 63.71(g) Applications to Discontinue Service With No Customers.* We specifically propose to maintain but modify the provision adopted in the *2016 Technology Transitions Order* for streamlined treatment of section 214 discontinuance applications for all services that have not had customers for a period of six months prior to submission of the application. Under this rule, which was based on a proposal submitted to the Commission by AT&T, carriers may certify to the Commission that the service to be discontinued is ''a service for which the requesting carrier has had no customers or reasonable requests for service during the 180-day period immediately preceding submission of the application,'' and the application will be granted automatically on the 31st day after filing, unless the Commission has notified the applicant that the grant will not be automatically effective. We note that at least one carrier representative has recently endorsed this provision of the rules adopted in the *2016 Technology Transitions Order* as an effective tool for reducing barriers to next generation infrastructure deployment. We propose to shorten the timeframe during which a carrier must demonstrate that it has had no customers for a given service, from 180 days to 60 days, and seek comment on this modification. Because this proposed rule applies only to services without customers, consumer harm from further streamlining these kinds of discontinuance applications appears unlikely. We seek comment on retaining and modifying section 63.71(g) as proposed, and on any other additions or amendments to the rule, such as shortening the time in which the application is automatically granted, that may further our goal of removing regulatory barriers to broadband investment. Would a different timeframe during which a carrier must demonstrate that it has had no customers be more appropriate to balance the interests of discontinuing carriers and potential consumers of these services?

98. *Section 63.71(i) Auto-grants for Competitive LECs Upon Copper Retirement.* We seek comment on revising section 63.71(i), which was adopted in the *2016 Technology Transitions Order* to provide for automatic discontinuance authority, subject to certain conditions, for competitive LECs that must discontinue service on a date certain due to an incumbent LEC's effective copper retirement. Specifically, to the extent we eliminate section 51.332, we seek comment on revising section 63.71(i) to include as a condition that the relevant network change notice provides no more than six months' notice. We also seek comment on how, if at all, we should modify section 63.71(i) to further harmonize it with any revisions we adopt herein to the incumbent LEC copper retirement process under Part 51 of our rules. We seek to ensure our rules take into account situations, where, through no fault of its own, a competitive LEC is unable to comply with our section 214(a) discontinuance requirements as a result of an incumbent LEC's transition to a next-generation network. To the extent we reduce the waiting period for implementing planned copper retirements, would this eliminate the need for or necessitate any changes to section 63.71(i)?

99. *2016 Technology Transitions Order Revisions to Sections 63.71(a)–(b).* We seek comment on whether we should retain, modify, or eliminate the changes made by the *2016 Technology Transitions Order* to section 63.71(a) and the introduction of new section 63.71(b). The *2016 Technology Transitions Order* modified section 63.71(a) by requiring carriers to provide notice of discontinuance applications to any federally-recognized Tribal Nations with authority over the Tribal lands in which the discontinuance, reduction, or impairment of service is proposed. It

also modified section 63.71(a) to clearly permit carriers to provide email notice to customers of discontinuance applications, and it established requirements in section 63.71(b) that carriers must meet when using email to satisfy the written notice requirements.

V. Initial Regulatory Flexibility Analysis

100. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this *NPRM.* Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided in paragraph 133 of this *NPRM.* The Commission will send a copy of this *NPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

A. Need for, and Objectives of, the Proposed Rules

101. The *NPRM* proposes new steps designed to accelerate the deployment of next-generation networks and services by removing barriers to infrastructure investment. Access to high speed broadband creates economic opportunity, enabling entrepreneurs to create businesses, immediately reach customers throughout the world and revolutionize entire industries. This proceeding aims to better enable broadband providers to build, maintain, and upgrade their networks, which will spur job growth and ultimately lead to more affordable and accessible Internet access and other broadband services for all Americans. Today's action proposes to remove regulatory barriers to infrastructure at the state and local level, proposes changes to speed the transition from copper networks and legacy services to next-generation networks and services dependent on fiber, and proposes to reform Commission regulations that are raising costs and slowing broadband deployment rather than facilitating it. Thus, the Commission seeks comment on a variety of issues in the following areas.

102. First, the *NPRM* proposes and seeks comment on changes to the Commission's pole attachment rules that would: (1) Adopt a streamlined timeframe for gaining access to utility poles; (2) reduce charges paid by attachers to utilities for work done to make a pole ready for new attachments; (3) codify the elimination of certain capital costs from the formulas used to confirm the reasonableness of rates charged by utilities for pole attachments by telecommunications and cable providers; (4) establish a 180-day shot clock for Commission consideration of pole attachment complaints; (5) adopt a formula for computing the maximum pole attachment rate that may be imposed on an incumbent LEC, and (6) adopt rules that would interpret the interconnection rules for telecommunications carriers in section 251 of the Act and the pole attachment rules of section 224 in a manner that allows for competitive LECs to demand access to incumbent LEC poles and vice versa.

103. Second, the *NPRM* seeks comment on changing the Commission's Part 51 copper retirement rules to expedite the copper retirement process and reduce associated regulatory burdens to facilitate more rapid deployment of next-generation networks, as well a proposal and other potential changes to streamline and/or eliminate provisions of the more generally applicable network change notification rules. It also seeks comment on eliminating section 68.110(b) of the Commission's rules.

104. Third, the *NPRM* seeks comment on proposals to streamline the section 214(a) discontinuance process by reducing the comment and automatic-grant timeframes for two specific categories of discontinuance applications: ''Grandfathered'' low-speed legacy services for existing customers, and legacy data services that have been grandfathered for a period of no less than 180 days. Fourth, the *NPRM* seeks comment on reversing the Commission's 2015 ''carrier-customer's retail end user'' interpretation of the scope of section 214(a) discontinuance authority.

105. Fifth, the *NPRM* seeks comment on other section 63.71 changes to further streamline the section 214 (a) discontinuance process for carriers.

B. Legal Basis

106. The proposed action is authorized under sections 1, 2, 4(i), 214, 224, 251, and 253 of the Communications Act of 1934, as amended; 47 U.S.C. 151, 152, 154(i), 214, 224, 251, 253.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

107. The RFA directs agencies to provide a description and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules and by the rule revisions on which the *NPRM* seeks comment, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small-business concern'' under the Small Business Act. A ''small-business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

108. The majority of our proposals and the changes on which we seek comment in the *NPRM* will affect obligations on incumbent LECs and, in some cases, competitive LECs. Certain pole attachment proposals also would affect obligations on utilities that own poles, telecommunications carriers and cable television systems that seek to attach equipment to utility poles, and other LECs that own poles. The definitions of utility and telecommunications carrier for purposes of our pole attachment rules are found in 47 U.S.C. 224(a)(1) and (a)(5), respectively. Our actions, over time, may affect small entities that are not easily categorized at present. Other entities, however, that choose to object to network change notifications for copper retirement under the changes on which we seek comment and section 214 discontinuance applications may be economically impacted by the proposals in this *NPRM.*

109. *Small Businesses, Small Organizations, and Small Governmental Jurisdictions.* Our action may, over time, affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive, statutory small entity size standards that encompass entities that could be directly affected by the new and revised rules adopted today. According to the most currently available SBA data, there are 28.8 million small businesses in the U.S., which represent 99.9% of all businesses in the United States. Additionally, a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 2007, there were approximately 1,621, 215 small organizations. Finally, the term ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' Census Bureau data for 2012 indicate that there were 89,476

governmental jurisdictions in the United States. We estimate that, of this total, as many as 88,718 entities may qualify as ''small governmental jurisdictions.'' Thus, we estimate that most governmental jurisdictions are small.

110. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as ''establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.'' The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

111. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable NAICS Code category is for Wired Telecommunications Carriers, as defined in paragraph 12 of this IRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. The Commission therefore estimates that most providers of local exchange carrier service are small entities that may be affected by the rules adopted.

112. *Incumbent Local Exchange Carriers (incumbent LECs).* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers as defined in paragraph 13 of this IRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 3,117 firms operated in that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules and policies adopted. One thousand three hundred and seven (1,307) Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers. Of this total, an estimated 1,006 have 1,500 or fewer employees.

113. Competitive Local Exchange Carriers (competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers. Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate NAICS Code category is Wired Telecommunications Carriers, as defined in paragraph 12 of this IRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census data for 2012 indicate that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees. Based on this data, the Commission concludes that the majority of Competitive LECs, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers are small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. In addition, 72 carriers have reported that they are Other Local Service Providers. Of this total, 70 have 1,500 or fewer employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities that may be affected by the adopted rules.

114. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a definition for Interexchange Carriers. The closest NAICS Code category is Wired Telecommunications Carriers as defined in paragraph 13 of this IRFA. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. According to Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of this total, an estimated 317 have 1,500 or fewer employees and 42 have more than 1,500 employees. Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by rules adopted.

115. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable NAICS Code category is for Wired Telecommunications Carriers, as defined in paragraph 13 of this IRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of Other Toll Carriers can be considered small. According to Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage. Of these, an estimated 279 have 1,500 or fewer employees. Consequently, the Commission estimates that most Other Toll Carriers that may be affected by our rules are small.

116. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, Census data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had fewer than 1,000 employees. Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision

of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) services. Of this total, an estimated 261 have 1,500 or fewer employees. Consequently, the Commission estimates that approximately half of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

117. *Cable Companies and Systems (Rate Regulation).* The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide. Industry data indicate that there are currently 4,600 active cable systems in the United States. Of this total, all but nine cable operators nationwide are small under the 400,000-subscriber size standard. In addition, under the Commission's rate regulation rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Current Commission records show 4,600 cable systems nationwide. Of this total, 3,900 cable systems have fewer than 15,000 subscribers, and 700 systems have 15,000 or more subscribers, based on the same records. Thus, under this standard as well, we estimate that most cable systems are small entities.

118. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000 are approximately 52,403,705 cable video subscribers in the United States today. Accordingly, an operator serving fewer than 524,037 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that all but nine incumbent cable operators are small entities under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

119. *All Other Telecommunications.* ''All Other Telecommunications'' is defined as follows: ''This U.S. industry is comprised of establishments that are primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or voice over Internet protocol (VoIP) services via client supplied telecommunications connections are also included in this industry.'' The SBA has developed a small business size standard for ''All Other Telecommunications,'' which consists of all such firms with gross annual receipts of $32.5 million or less. For this category, Census Bureau data for 2012 show that there were 1,442 firms that operated for the entire year. Of those firms, a total of 1,400 had annual receipts less than $25 million. Consequently, we conclude that the majority of All Other Telecommunications firms can be considered small.

120. *Electric Power Generation, Transmission and Distribution.* The Census Bureau defines this category as follows: ''This industry group comprises establishments primarily engaged in generating, transmitting, and/or distributing electric power. Establishments in this industry group may perform one or more of the following activities: (1) Operate generation facilities that produce electric energy; (2) operate transmission systems that convey the electricity from the generation facility to the distribution system; and (3) operate distribution systems that convey electric power received from the generation facility or the transmission system to the final consumer.'' This category includes electric power distribution, hydroelectric power generation, fossil fuel power generation, nuclear electric power generation, solar power generation, and wind power generation. The SBA has developed a small business size standard for firms in this category based on the number of employees working in a given business. According to Census Bureau data for 2012, there were 1,742 firms in this category that operated for the entire year.

121. *Natural Gas Distribution.* This economic census category comprises: ''(1) establishments primarily engaged in operating gas distribution systems (*e.g.,* mains, meters); (2) establishments known as gas marketers that buy gas from the well and sell it to a distribution system; (3) establishments known as gas brokers or agents that arrange the sale of gas over gas distribution systems operated by others; and (4) establishments primarily engaged in transmitting and distributing gas to final consumers.'' The SBA has developed a small business size standard for this industry, which is all such firms having 1,000 or fewer employees. According to Census Bureau data for 2012, there were 422 firms in this category that operated for the entire year. Of this total, 399 firms had employment of fewer than 1,000 employees, 23 firms had employment of 1,000 employees or more, and 37 firms were not operational. Thus, the majority of firms in this category can be considered small.

122. *Water Supply and Irrigation Systems.* This economic census category ''comprises establishments primarily engaged in operating water treatment plants and/or operating water supply systems. The water supply system may include pumping stations, aqueducts, and/or distribution mains. The water may be used for drinking, irrigation, or other uses.'' The SBA has developed a small business size standard for this industry, which is all such firms having $27.5 million or less in annual receipts. According to Census Bureau data for 2012, there were 3,261 firms in this category that operated for the entire year. Of this total, 3,035 firms had annual sales of less than $25 million. Thus, the majority of firms in this category can be considered small.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

123. The *NPRM* proposes and/or seeks comment on a number of rule changes that will affect reporting, recordkeeping, and other compliance requirements. We expect the rule revisions proposed or suggested for potential change in the *NPRM* to reduce reporting, recordkeeping, and other compliance requirements. The rule revisions taken as a whole should have a beneficial reporting, recordkeeping, or compliance impact on small entities because all carriers will be subject to fewer such burdens. Each of these changes is described below.

124. The *NPRM* proposes the following changes to the current pole

attachment timeline: (1) Requiring utilities to make a decision on completed pole attachment applications within a timeframe shorter than the current 45 days of receipt; (2) requiring utilities to provide an estimate of make-ready costs to new attachers within a timeframe that is shorter than the current 14 days; and (3) establishing a time period for existing attachers to complete make-ready work to their attachments in the communications space of a pole that is shorter than the current 60 days. The *NPRM* also proposes to limit a new attacher's liability for make-ready costs to those costs actually caused by the new attachment, to require utilities to proportionately share in the cost of a new attachment for which they receive a direct benefit, and to require utilities that perform make-ready work to make available to new attachers a schedule of common make-ready charges. With regard to pole attachment rates, the *NPRM* proposes to codify the elimination from the telecommunications and cable rate formulas those capital costs that already have been paid to the utility via make-ready charges, to establish a rebuttable presumption that incumbent LECs are similarly situated to other attachers on a pole, and to establish a rebuttable pole attachment formula for computing the maximum pole attachment rate to be charged to incumbent LECs. Further, the *NPRM* proposes a 180-day shot clock for Commission resolution of pole access complaints, which would include a mandatory pre-complaint meeting between the parties in order to resolve procedural issues and deadlines. Finally, the *NPRM* proposes to allow incumbent LECs to request nondiscriminatory pole access from other LECs that own or control utility poles. Should the Commission adopt any of these proposals, such actions could result in increased, reduced, or otherwise altered reporting, recordkeeping, or other compliance requirements for utilities and attaching entities. The *NPRM* also seeks comment on eliminating some or all of the changes to the copper retirement process adopted by the Commission in the *2015 Technology Transitions Order,* including the rules that doubled the time period during which an incumbent LEC must wait to implement the planned copper retirement after the Commission's publication of public notice from 90 days to 180 days, required direct notice to retail customers, and expanded the types of information that must be disclosed. The *NPRM* also proposes eliminating the rule preventing incumbent LECs from disclosing information about planned network changes with certain entities until public notice has been given of those planned changes, and also seeks comment on eliminating section 68.110(b), which requires that a carrier notify its customers when changes to its facilities, equipment, operations, or procedures might render customers' terminal equipment incompatible with those facilities, equipment, operations, or procedures. In addition, the *NPRM* proposes targeted measures and/or seeks comment on potential rule changes to shorten timeframes and eliminate unnecessary regulatory process encumbrances that carriers face to maintain legacy services they seek to discontinue.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

125. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

126. The Commission proposes to adopt specific changes to its pole attachment timeline that would provide a predictable, timely process for parties to obtain pole attachments, while maintaining the interests of utilities and existing attachers in preserving safety, reliability, and sound engineering. In consideration of the new timeline, the Commission seeks comments on alternatives that might help smaller utilities and attachers: (1) Whether it would be reasonable to cap at 45 days a utility's review of a large number of pole attachment applications; (2) whether it is reasonable to combine the survey, estimate, and acceptance stages of the current Commission pole attachment timeline into one step with a condensed timeframe; and (3) whether 30 days is long enough for existing attachers to complete routine make-ready work. The Commission also seeks alternatives to its current make-ready process in the areas of: (1) The expanded use of utility-approved contractors to perform make-ready work; (2) allowing existing attachers to observe the make-ready work being performed by new attachers and their contractors; (3) requiring utilities and attachers to agree on the specific contractors to perform make-ready work on their equipment; (4) allowing new attachers to perform routine make-ready work on all pole equipment without involving existing attachers; and (5) establishing pole attachment processes modeled after ''one-touch, make-ready'', ''right-touch, make-ready'', and other approaches. The Commission also seeks alternatives to its current complaint process as the best way to keep make-ready costs just and reasonable, asks whether a bonus payment or multiplier could be used to incent existing attachers to meet their make-ready timelines, asks about ways to incent private negotiations between new and existing attachers to govern the make-ready process (*e.g.,* allowing a new attacher to select a default contractor to perform make-ready, penalizing existing attachers that fail to meet make-ready deadlines), asks whether utilities should be required to make information available online regarding the cost, location, and availability of poles and conduits, asks whether a flat per-pole make-ready fee would be preferable to the current method of allocating make-ready costs, asks whether utilities should be required to reimburse attachers for the costs of new attachments that subsequently benefit utilities (which might benefit new entrants, especially small entities with limited resources), asks whether the Commission should eliminate all capital costs from its pole attachment rate formulas, asks about the appropriate pole attachment rate for attachers providing commingled cable and telecommunications services, and asks whether we should adopt a shot clock for all pole attachment complaints (not just those related to pole access).

127. The *NPRM* also seeks comment on the need to revise the requirements of our network change disclosure rules applicable to copper retirements to reduce barriers to investment in next-generation technologies and promote broadband deployment. To that end, the *NPRM* seeks comment on eliminating section 51.332 in its entirety and returning to a more streamlined version of the pre-*2015 Technology Transitions Order* requirements for handling copper retirements subject to section 251(c)(5) of the Act. Specifically, the *NPRM* seeks comment on reinstating the less burdensome requirements under section 51.333(c) of the Commission's rules applicable to copper retirements prior to adoption of the *2015 Technology*

Transitions Order. In the alternative, the *NPRM* seeks comment on eliminating all differences between copper retirement and other network change notice requirements, rendering copper retirement changes subject to the same long-term or, where applicable, short-term network change notice requirements as all other types of network changes subject to section 251(c)(5). As a third alternative, the *NPRM* seeks comment on retaining but amending section 51.332 to streamline the process. Specifically, the *NPRM* seeks comment on revising section 51.332 to: (1) Require an incumbent LECs to serve its notice only to telephone exchange service providers that directly interconnect with the incumbent LEC's network, rather than ''each entity within the affected service area that directly interconnects with the incumbent LEC's network''; (2) reduce the waiting period to 90 days from 180 days after the Commission releases its public notice before the incumbent LEC may implement the planned copper retirement; (3) provide greater flexibility regarding the time in which an incumbent LEC must file the requisite certification; and (4) reduce the waiting period to 30 days where the copper facilities being retired are no longer being used to serve any customers in the affected service area; and to potentially reinstate the objection procedures applicable under the rules in place prior to the *2015 Technology Transitions Order* if section 51.332 is eliminated. The *NPRM* also proposes to eliminate the prohibition on incumbent LECs disclosing information about planned network changes prior to giving public notice of those planned changes. And the *NPRM* seeks comment on eliminating or modifying section 68.110(b), which requires that a carrier notify its customers when changes to its facilities, equipment, operations, or procedures might render customers' terminal equipment incompatible with those facilities, equipment, operations, or procedures.

128. The *NPRM* seeks comment on proposals to streamline the section 214(a) discontinuance process for applications that seek authorization to ''grandfather'' low-speed legacy services, such as TDM services at lower-than-DS1 speeds (below 1.544 Mbps), for existing customers. Specifically, the proposals seek to reduce the public comment period to 10 days for applications from both dominant and non-dominant carriers seeking to grandfather legacy low-speed services. The proposals also seek to revise the Commission's discontinuance rules to provide for automatic grant of applications by both dominant and non-dominant carriers to grandfather low-speed legacy services on the 25th day after the Commission has released a public notice seeking comment on an application, unless the Commission notifies the applicant that such a grant will not be automatically effective.

129. The *NPRM* seeks comment on proposals to streamline the discontinuance process for any application seeking authorization to discontinue legacy data services that have been grandfathered for a period of no less than 180 days prior to the filing of the application. The proposals seek to adopt a uniform public comment period of 10 days for all applications seeking to discontinue legacy data services that have previously been grandfathered, regardless of whether the carrier filing the application is a dominant or non-dominant carrier. Additionally, the proposals seek to provide for automatic grant of these applications on the 31st day after filing, unless the Commission notifies the applicant that such a grant will not be automatically effective.

130. The *NPRM* seeks comment on revising the discontinuance rule pertaining to discontinuance applications filed in response to a copper retirement notice to reflect any subsequent changes to the copper retirement rules and any other streamlining measures that could be taken.

131. The *NPRM* seeks comment on reversing the Commission's 2015 ''clarification'' of section 214(a) that substantially expanded the scope of end users that a carrier must consider in determining whether it is required to obtain section 214 discontinuance authority, and, going forward, interpret section 214(a) to require a carrier to take into account only its own end users when evaluating whether the carrier will ''discontinue, reduce, or impair service to a community, or part of a community.''

132. The Commission believes that its proposals and potential rule changes upon which the *NPRM* seeks comment will benefit all carriers, regardless of size. The proposals and potential rule changes would further the goal of reducing regulatory burdens, thus facilitating investment in next-generation networks and promoting broadband deployment. We anticipate that a more modernized regulatory scheme will encourage carriers to invest in and deploy even more advanced technologies as they evolve.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

133. None.

VI. Procedural Matters

A. Ex Parte Rules

134. The proceeding related to this *NPRM* shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with Rule 1.1206(b). In proceedings governed by Rule 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

B. Initial Regulatory Flexibility Analysis

135. Pursuant to the Regulatory Flexibility Act (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and actions considered in this *NPRM.* The text of

the IRFA is set forth above. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *NPRM.* The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of the *NPRM,* including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

C. Paperwork Reduction Act

136. This document contains proposed new and modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

VII. Ordering Clauses

137. Accordingly, it is ordered that, pursuant to the authority contained in sections 1–4, 201, 202, 214, 224, 251, 253 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201, 202, 214, 224, 251, 253, 303(r), this *NPRM* is adopted.

138. It is further ordered that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *NPRM* to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 1

Practice and procedure.

47 CFR Part 51

Interconnection.

47 CFR Part 63

Extension of lines, new lines, and discontinuance, reduction, outage and impairment of service by common carriers; and Grants of recognized private operating agency status.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 1, 51, and 63 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 15 U.S.C. 79 *et seq.,* 47 U.S.C. 151, 154(i) and (j), 155, 157, 160, 201, 224, 225, 227, 303, 309, 301, 332, 1403, 1404, 1451, 1452, and 1455.

■ 2. Amend § 1.1403 by revising paragraphs (a) and (b) to read as follows:

§ 1.1403 Duty to provide access; modifications; notice of removal, increase or modification; petition for temporary stay; and cable operator notice.

(a) A utility shall provide a cable television system or any telecommunications carrier with nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it. A utility that is a local exchange carrier shall provide any incumbent local exchange carrier (as defined in 47 U.S.C. 251(h)) with nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it. Notwithstanding either of the foregoing obligations, a utility may deny a cable television system or any telecommunications carrier, and a utility that is a local exchange carrier may deny an incumbent local exchange carrier, access to its poles, ducts, conduits, or rights-of-way, on a non-discriminatory basis where there is insufficient capacity or for reasons of safety, reliability and generally applicable engineering purposes.

(b) Requests for access to a utility's poles, ducts, conduits, or rights-of-way by a telecommunications carrier or cable operator must be in writing. If access is not granted within 15 days of the request for access, the utility must confirm the denial in writing by the 15th day (or within the timelines set forth in section 1.1420(g)). The utility's denial of access shall be specific, shall include all relevant evidence and information supporting its denial, and shall explain how such evidence and information relate to a denial of access for reasons of lack of capacity, safety, reliability or engineering standards.

* * * * *

■ 3. Amend § 1.1404 by revising paragraph (k) to read as follows:

§ 1.1404 Complaint.

* * * * *

(k) The complaint shall include:

(1) A certification that the complainant has, in good faith, engaged or attempted to engage in executive-level discussions with the respondent to resolve the pole attachment dispute. Executive-level discussions are discussions among representatives of the parties who have sufficient authority to make binding decisions on behalf of the company they represent regarding the subject matter of the discussions. Such certification shall include a statement that, prior to the filing of the complaint, the complainant mailed a certified letter to the respondent outlining the allegations that form the basis of the complaint it anticipated filing with the Commission, inviting a response within a reasonable period of time, and offering to hold executive-level discussions regarding the dispute; and

(2) A certification that the complainant and respondent have, in good faith, engaged in discussions to resolve procedural issues and deadlines associated with the pole attachment complaint process. Such certification shall include a statement that the complainant has contacted the Commission to disclose the results of the pre-complaint discussions with respondent.

(3) A refusal by a respondent to engage in the discussions contemplated in this paragraph shall constitute an unreasonable practice under section 224 of the Act.

* * * * *

■ 4. Amend § 1.1409 by revising paragraph (c) to read as follows:

§ 1.1409 Commission consideration of the complaint.

* * * * *

(c) The Commission shall determine whether the rate, term or condition complained of is just and reasonable. For the purposes of this paragraph, a rate is just and reasonable if it assures a utility the recovery of not less than the additional costs of providing pole attachments, nor more than an amount determined by multiplying the percentage of the total usable space, or the percentage of the total duct or conduit capacity, which is occupied by the pole attachment by the sum of the operating expenses and actual capital costs of the utility attributable to the entire pole, duct, conduit, or right-of-way. The Commission shall exclude from actual capital costs those reimbursements received by the utility from cable operators and telecommunications carriers for non-recurring costs as set forth in sections 1.1404(g)(1)(xiii) and 1.1404(h)(1)(ix).

* * * * *

■ 5. Amend § 1.1416 by revising the section heading and paragraphs (b) and (c), and adding paragraph (d) to read as follows:

§ 1.1416 Imputation of rates; make-ready costs.

* * * * *

(b) The cable television system operator or telecommunications carrier requesting attachment shall be responsible only for the actual costs of make-ready made necessary solely as a result of its new attachments.

(c) The costs of modifying a facility shall be borne by all attachers and utilities that obtain access to the facility as a result of the modification and by all attachers and utilities that directly benefit from the modification. Each party described in the preceding sentence shall share proportionately in the cost of the modification. An attacher or a utility with a preexisting attachment to the modified facility shall be deemed to directly benefit from a modification if, after receiving notification of such modification as provided in subpart J of this part, it adds to or modifies its attachment. Notwithstanding the foregoing, an attacher or utility with a preexisting attachment to a pole, conduit, duct or right-of-way shall not be required to bear any of the costs of rearranging or replacing its attachment if such rearrangement or replacement is necessitated solely as a result of an additional attachment or the modification of an existing attachment sought by another party. If an attacher or utility makes an attachment to the facility after the completion of the modification, such party shall share proportionately in the cost of the modification if such modification rendered possible the added attachment.

(d) If a utility performs make-ready, the utility shall make available to the cable television system operator or telecommunications carrier requesting attachment a schedule of its common make-ready charges that the new attacher may be charged.

■ 6. Amend § 1.1420 by revising paragraphs (c) and (d), paragraph (e)(1)(ii), and paragraphs (g)(3) and (4) to read as follows:

§ 1.1420 Timeline for access to poles, ducts, conduits, and rights of way.

* * * * *

(c) *Survey.* A utility shall respond as described in § 1.1403(b) to a cable television system operator or telecommunications carrier within 15 days of receipt of a complete application to attach facilities to its utility poles (or within the timelines set forth in paragraph (g) of this section). This response may be a notification that the utility has completed a survey of poles for which access has been requested. A complete application is an application that provides the utility with the information necessary under its procedures to begin to survey the poles.

(d) *Estimate.* Where a request for access is not denied, a utility shall present to a cable television system operator or telecommunications carrier an estimate of charges to perform all necessary make-ready work within 7 days of providing the response required by § 1.1420(c), or in the case where a prospective attacher's contractor has performed a survey, within 7 days of receipt by the utility of such survey.

(1) A utility may withdraw an outstanding estimate of charges to perform make-ready work beginning 7 days after the estimate is presented.

(2) A cable television system operator or telecommunications carrier may accept a valid estimate and make payment anytime after receipt of an estimate but before the estimate is withdrawn.

(e) * * *

(1) * * *

(ii) Set a date for completion of make-ready that is no later than 30 days after notification is sent (or 75 days in the case of larger orders as described in paragraph (g) of this section).

* * * * *

(g) * * *

(3) A utility may add 30 days to the survey period described in paragraph (c) of this section to pole attachment orders larger than the lesser of (i) 3000 poles or (ii) 5 percent of the utility's poles in a state.

(4) A utility may add 45 days to the make-ready periods described in paragraph (e) of this section to larger orders up to the lesser of 3000 poles or 5 percent of the utility's poles in a state.

* * * * *

■ 7. Amend § 1.1422 by revising the section heading and paragraphs (a) and (c) to read as follows:

§ 1.1422 Contractors for survey and make-ready.

(a) A utility shall make available and keep up-to-date a reasonably sufficient list of contractors it authorizes to perform surveys and make-ready in the communications space on its utility poles. A utility shall separately identify on that list the contractors it authorizes to perform make-ready above the communications space on its utility poles.

* * * * *

(c) A cable television system operator or telecommunications carrier that hires a contractor for survey or make-ready work shall provide a utility and existing attachers with a reasonable opportunity for their representatives to accompany and consult with the authorized contractor and the cable television system operator or telecommunications carrier requesting attachment.

* * * * *

■ 8. Revise § 1.1424 to read as follows:

§ 1.1424 Complaints by incumbent local exchange carriers.

Complaints by an incumbent local exchange carrier (as defined in 47 U.S.C. 251(h)) or an association of incumbent local exchange carriers alleging that a rate, term, or condition for a pole attachment is not just and reasonable shall follow the same complaint procedures specified for other pole attachment complaints in this part, as relevant. In complaint proceedings, there will be a rebuttable presumption that an incumbent local exchange carrier (or an association of incumbent local exchange carriers) is similarly situated to an attacher that is a telecommunications carrier (as defined in 47 U.S.C. 251(a)(5)) or a cable television system for purposes of obtaining comparable rates, terms or conditions. In pole attachment rate complaint proceedings, it is presumed that incumbent local exchange carriers (or an association of incumbent local exchange carriers) may be charged no higher than the rate determined in accordance with section 1.1409(e)(2), unless a utility can rebut the presumption by demonstrating that this maximum rate presumption should not apply.

■ 9. Add § 1.1425 to subpart J to read as follows:

§ 1.1425 Review Period for Pole Access Complaints.

(a) Except in extraordinary circumstances, final action on a complaint where a cable television system operator or telecommunications carrier claims that it has been denied access to a pole, duct, conduit, or right-of-way owned or controlled by a utility should be expected no later than 180 days from the date the complaint is filed with the Commission.

(b) The Commission shall have the discretion to pause the 180-day review period in situations where actions outside the Commission's control are responsible for unreasonably delaying Commission review of an access complaint.

PART 51—INTERCONNECTION

■ 10. The authority for part 51 continues to read as follows:

Authority: 47 U.S.C. 151–55, 201–05, 207–09, 218, 220, 225–27, 251–54, 256, 271, 303(r), 332, 1302.

§ 51.325 [Amended]

■ 11. Amend § 51.325 by removing paragraph (c) and redesignating paragraphs (d) and (e) as (c) and (d).

PART 63—EXTENSION OF LINES, NEW LINES, AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

■ 12. The authority for part 63 continues to read as follows:

Authority: Sections 1, 4(i), 4(j), 10, 11, 201–205, 214, 218, 403 and 651 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 160, 201–205, 214, 218, 403, and 571, unless otherwise noted.

■ 13. Amend § 63.60 by redesignating paragraphs (d) through (h) as (e) through (i), and adding new paragraph (d) to read as follows:

§ 63.60 Definitions.

* * * * *

(d) *Grandfather* means to maintain the provision of a service to existing customers while ceasing to offer that service to new customers.

* * * * *

■ 14. Amend § 63.71 by adding paragraph (a)(5)(iii) and (a)(8), revising paragraph (c), removing paragraph (d), redesignating paragraphs (e) and (f) as (d) and (e), adding new paragraph (f), and revising paragraph (g) to read as follows:

§ 63.71 Procedures for discontinuance, reduction or impairment of service by domestic carriers.

(a) * * *

(5) * * *

(iii) Notwithstanding paragraphs (a)(5)(i) and (ii) of this section, if any carrier, dominant or non-dominant, seeks to either grandfather legacy service operating at speeds lower than 1.544 Mbps; or discontinue, reduce, or impair legacy data service that has been grandfathered for a period of no less than 180 days consistent with the criteria established in paragraph (a)(8) of this section, the notice shall state: The FCC will normally authorize this proposed discontinuance of service (or reduction or impairment) unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier or that the public convenience and necessity is otherwise adversely affected. If you wish to object, you should file your comments as soon as possible, but no later than 10 days after the Commission releases public notice of the proposed discontinuance. You may file your comments electronically through the FCC's Electronic Comment Filing System using the docket number established in the Commission's public notice for this proceeding, or you may address them to the Federal Communications Commission, Wireline Competition Bureau, Competition Policy Division, Washington, DC 20554, and include in your comments a reference to the § 63.71 Application of (carrier's name). Comments should include specific information about the impact of this proposed discontinuance (or reduction or impairment) upon you or your company, including any inability to acquire reasonable substitute service.

* * * * *

(8) For applications to discontinue, reduce, or impair a legacy data service that has been grandfathered for a period of no less than 180 days, in order to be eligible for automatic grant under paragraph (f) of this section, an applicant must include in its application a statement confirming that they received Commission authority to grandfather the service at issue at least 180 days prior to filing the current application.

* * * * *

(c) The carrier shall file with this Commission, on or after the date on which notice has been given to all affected customers, an application which shall contain the following:

(1) Caption—''Section 63.71 Application'';

(2) Information listed in § 63.71(a) (1) through (4) above;

(3) Information listed in § 63.71(a) (6) through (8) above, if applicable;

(4) Brief description of the dates and methods of notice to all affected customers;

(5) Whether the carrier is considered dominant or non-dominant with respect to the service to be discontinued, reduced or impaired; and

(6) Any other information the Commission may require.

* * * * *

(f) Notwithstanding paragraph (e) of this section, an application filed by any carrier seeking to grandfather legacy service operating at speeds lower than 1.544 Mbps for existing customers shall be automatically granted on the 25th day after its filing with the Commission without any Commission notification to the applicant unless the Commission has notified the applicant that the grant will not be automatically effective. For purposes of this section, an application will be deemed filed on the date the Commission releases public notice of the filing.

(g) An application seeking to:

(1) Discontinue, reduce, or impair a service for which the requesting carrier has had no customers or reasonable requests for service during the 60-day period immediately preceding the filing of the application; or

(2) Discontinue, reduce, or impair a legacy data service that has been grandfathered for no less than the 180-day period immediately preceding the filing of the application, shall be automatically granted on the 31st day after its filing with the Commission without any Commission notification to the applicant, unless the Commission has notified the applicant that the grant will not be automatically effective.

* * * * *

[FR Doc. 2017–09689 Filed 5–15–17; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 82, No. 93
Tuesday, May 16, 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

Rural Utilities Service

Announcement of Grant Application Deadlines and Funding Levels

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of Solicitation of Applications (NOSA).

SUMMARY: The Rural Utilities Service (RUS), an agency of the United States Department of Agriculture (USDA), herein referred to as RUS or the Agency, announces its Distance Learning and Telemedicine (DLT) Grant Program application window for Fiscal Year (FY) 2017. This notice is being issued in order to allow potential applicants time to submit proposals and give the Agency time to process applications within the current fiscal year. RUS will publish on its Web site at *http://www.rd.usda.gov/newsroom/notices-solicitation-applications-nosas* the amount of funding received in the final appropriations act. Enactment of additional continuing resolutions or an appropriations act may affect the availability or level of funding for this program.

In addition to announcing the application window, RUS announces the minimum and maximum amounts for DLT grants applicable for the fiscal year. The DLT Grant Program regulation can be found at 7 part CFR 1703 (Subparts D through E).

DATES: Submit completed paper or electronic applications for grants according to the following deadlines:

- *Paper submissions:* Paper submissions must be postmarked and mailed, shipped, or sent overnight *no later* than July 17, 2017 to be eligible for FY 2017 grant funding. Late or incomplete applications will not be eligible for FY 2017 grant funding.
- *Electronic submissions:* Electronic submissions must be received no later than July 17, 2017 to be eligible for FY 2017 grant funding. Late or incomplete applications will not be eligible for FY 2017 grant funding.
- If the submission deadline falls on Saturday, Sunday, or a Federal holiday, the application is due the next business day.

ADDRESSES: Copies of the FY 2017 Application Guide and materials for the DLT Grant Program may be obtained through:

(1) The DLT Web site at *https://www.rd.usda.gov/programs-services/distance-learning-telemedicine-grants,* or

(2) The RUS Office of Loan Origination and Approval at 202–720–0800.

Completed applications may be submitted the following ways:

(1) *Paper:* Mail paper applications to the Rural Utilities Service, Telecommunications Program, 1400 Independence Ave. SW., Room 2808, STOP 1597, Washington, DC 20250–1597. Mark address with, ''Attention: Deputy Assistant Administrator, Office of Loan Origination and Approval, Rural Utilities Service.''

(2) *Electronic:* Submit electronic applications through *Grants.gov*. Information on electronic submission is available on the *Grants.gov* Web site (*http://www.grants.gov*) at any time, regardless of registration status. However, applicants must pre-register with *Grants.gov* to use the electronic applications option.

FOR FURTHER INFORMATION CONTACT: Shawn Arner, Deputy Assistant Administrator, Office of Loan Origination and Approval, Rural Utilities Service, U.S. Department of Agriculture, telephone: (202) 720–0800, fax: 1–884–885–8179.

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency: Rural Utilities Service (RUS).

Funding Opportunity Title: Distance Learning and Telemedicine Grants.

Announcement Type: Initial announcement.

Funding Opportunity Number: RUS–17–01–DLT.

Catalog of Federal Domestic Assistance (CFDA) Number: 10.855.

Dates: Submit completed paper or electronic applications for grants according to the deadlines indicated in Section D(5).

A. Program Description

DLT grants are designed to provide access to education, training, and health care resources for rural Americans. The DLT Program is authorized by 7 U.S.C. 950aaa and provides financial assistance to encourage and improve telemedicine and distance learning services in rural areas through the use of telecommunications, computer networks, and related advanced technologies that students, teachers, medical professionals, and rural residents can use. The regulation for the DLT Program can be found at 7 CFR part 1703 (Subparts D through E).

The grants, which are awarded through a competitive process, may be used to fund telecommunications-enabled information, audio and video equipment, and related advanced technologies which extend educational and medical applications into rural areas. Grants are intended to benefit end users in rural areas, who are often not in the same location as the source of the educational or health care service. Of the funds made available, $1,600,000.00 will be prioritized to provide for communication upgrades between ambulances, emergency transportation vehicles and medical facilities.

As in years past, the FY 2017 DLT Grant Application Guide has been updated based on program experience. All applicants should carefully review and prepare their applications according to instructions in the FY 2017 Application Guide and sample materials. Expenses incurred in developing applications will be at the applicant's own risk.

B. Federal Award Information

Under 7 CFR 1703.124, the Administrator established a minimum grant amount of $50,000 and a maximum grant amount of $500,000 for FY 2017.

Award documents specify the term of each award, and the standard grant agreement is available at *https://www.rd.usda.gov/programs-services/distance-learning-telemedicine-grants.* The Agency will make awards and successful applicants will be required to execute documents appropriate to the project before funding will be advanced. Prior DLT grants cannot be renewed; however, existing DLT awardees can submit applications for new projects which will be evaluated as new

applications. Grant applications must be submitted during the application window.

C. Eligibility Information

1. *Eligible Applicants* (See 7 CFR 1703.103)

a. Only entities legally organized as one of the following are eligible for DLT Grant Program financial assistance:

i. An incorporated organization or a partnership;

ii. An Indian tribe or tribal organization, as defined in 25 U.S.C. 450b;

iii. A state or local unit of government;

iv. A consortium, as defined in 7 CFR 1703.102; or

v. Other legal entity, including a private corporation organized on a for-profit or not-for-profit basis.

b. Electric and telecommunications borrowers under the Rural Electrification Act of 1936 (7 U.S.C. 901 *et seq.*) are not eligible for DLT grants.

c. Corporations that have been convicted of a Federal felony within the past 24 months are not eligible. Any corporation that has been assessed to have any unpaid federal tax liability, for which all judicial and administrative remedies have been exhausted or have lapsed and is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, is not eligible for financial assistance.

d. Applicants must have an active registration at time of application submittal with current information in the System for Award Management (SAM) (previously the Central Contractor Registry (CCR)) at *https://www.sam.gov* and have a Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number. Further information regarding SAM registration and DUNS number acquisition can be found in Sections D(3) and D(4)of this notice.

2. *Cost Sharing or Matching*

The DLT Program requires matching contributions for grants. See 7 CFR 1703.122, 1703.125(g), and the FY 2017 Application Guide for information on required matching contributions.

a. Grant applicants must demonstrate matching contributions, in cash or in kind (new, non-depreciated items), of at least fifteen (15) percent of the total amount of financial assistance requested. Matching contributions must be used for eligible purposes of DLT grant assistance (see 7 CFR 1703.121 and Section D(7)(b) of this Notice).

b. Greater amounts of eligible matching contributions may increase an applicant's score (see 7 CFR 1703.126(b)(4)).

c. Applications that do not provide sufficient documentation of the required fifteen percent match will be declared ineligible.

d. Discounts and Donations. In review of applications submitted in FY 2014 and FY 2015, it was determined that vendor donated matches did not have any value without a corresponding purchase of additional equipment proposed to be purchased with grant funds. For example, for many of the proposed grant applications, software licenses were donated in support of grant applications. Without a corresponding purchase of the same vendor's equipment, this donation would have no value towards the project. This is considered a vendor discount which has never been eligible under this program. As a result, such matches were determined to be ineligible, which in some cases disqualified applicants from further consideration. In kind matches from vendors are, therefore, no longer considered eligible. This is consistent with past practices prior to FY 2014.

e. Eligible Equipment and Facilities. See 7 CFR 1703.102 and the FY 2017 Application Guide for more information regarding eligible and ineligible items.

3. *Other*

a. Minimum Rurality Requirements. To meet the minimum rurality requirements, applicants must propose end user sites that accrue a total average score of at least twenty (20) points. To receive points, an end user site must not be located within the boundaries of any incorporated or unincorporated city, village, or borough having a population in excess of 20,000 inhabitants. For more information regarding rurality requirements and scoring, see 7 CFR 1703.126(b)(2) and the FY 2017 Application Guide.

i. Hub sites may be located in rural or non-rural areas, but end-user sites need to be located in rural areas. If a hub is utilized as an end user site, the hub will be considered and scored as such.

ii. If a grant application includes a site that is included in any other DLT grant application for FY 2017, or a site that has been included in any DLT grant funded in FY 2016 or FY2015, the application should contain a detailed explanation of the related applications or grants. The Agency may not approve grants that lack a clear explanation to justify a nonduplication finding.

b. Ineligibility of Projects in Coastal Barrier Resources Act Areas. Projects located in areas covered by the Coastal Barrier Resources Act (16 U.S.C. 3501 *et seq.*) are not eligible for financial assistance from the DLT Program. See 7 CFR 1703.123(a)(11).

D. Application and Submission Information

The FY 2017 Application Guide provides specific, detailed instructions for each item in a complete application. The Agency emphasizes the importance of including every required item and strongly encourages applicants to follow the instructions carefully, using the examples and illustrations in the FY 2017 Application Guide. Applications submitted by the application deadline, but missing critical items, will be returned as ineligible. The Agency will not solicit or consider scoring eligibility information that is submitted after the application deadline. However, depending on the specific scoring criteria, applications that do not include all items necessary for scoring may still be eligible applications, but may not receive full or any credit if the information cannot be verified. See the FY 2017 Application Guide for a full discussion of each required item. For requirements of completed grant applications, refer to 7 CFR 1703.125.

1. *Address to Request Application Package.* The FY 2017 Application Guide, copies of necessary forms and samples, and the DLT Program Regulation are available from these sources:

a. Electronic Copies are available at *https://www.rd.usda.gov/programs-services/distance-learning-telemedicine-grants.*

b. Paper Copies are available from the Rural Utilities Service, Office of Loan Origination and Approval, 202–720–0800.

2. *Content and Form of Application Submission.*

a. Carefully review the DLT Application Guide and the 7 CFR part 1703, which detail all necessary forms and worksheets. A table summarizing the necessary components of a complete application can be found in this section.

b. Description of Project Sites. Most DLT grant projects contain several project sites. Site information must be consistent throughout the application. The Agency has provided a site worksheet that lists the required information. Applicants should complete the site worksheet with all requisite information. Applications without consistent site information will be returned as ineligible.

c. Submission of Application Items. Given the high volume of program interest, applicants should submit the required application items in the order indicated in the FY 2017 Application Guide. Applications that are not

assembled and tabbed in the specified order prevent timely determination of eligibility. For applications with inconsistencies among submitted copies, the Agency will base its evaluation on the original signed application received.

d. Table of Required Application Items.

Application item	Regulation	Comments
SF–424 (Application for Federal Assistance Form)	*7 CFR 1703.125(a)*	*Form provided in FY 2017 Application Tool Kit.*
Executive Summary of the Project	*7 CFR 1703.125(b)*	*Narrative.*
Scoring Criteria Documentation	*7 CFR 1703.125(c)*	*Narrative.*
Scope of Work	*7 CFR 1703.125(d)*	*Narrative & Documentation.*
Financial Information and Sustainability	*7 CFR 1703.125(e)*	*Narrative.*
Statement of Experience	*7 CFR 1703.125(f)*	*Narrative.*
Telecommunications System Plan	*7 CFR 1703.125(h)*	*Documentation.*
Leveraging Evidence and Funding Commitments from all Sources.	*7 CFR 1703.125(g)*	*Agency Worksheet and narrative.*
Equal Opportunity and Nondiscrimination	7 CFR part 15 subpart A	*Form provided in FY 2017 Application Tool Kit.*
Architectural Barriers	*7 CFR 1703.125(i)*	*Form provided in FY 2017 Application Tool Kit.*
Flood Hazard Area Precautions	*7 CFR 1703.125(i)*	*Form provided in FY 2017 Application Tool Kit.*
Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.	7 CFR part 21	*Form provided in FY 2017 Application Tool Kit.*
Drug-Free Workplace	2 CFR part 182 and 2 CFR part 421.	*Form provided in FY 2017 Application Tool Kit.*
Debarment, Suspension, and Other Responsibility Matters.	2 CFR part 417	*Form provided in FY 2017 Application Tool Kit.*
Lobbying for Contracts, Grants, Loans, and Cooperative Agreements.	2 CFR part 418	*Form provided in FY 2017 Application Tool Kit.*
Non-Duplication of Services		*Form provided in FY 2017 Application Tool Kit.*
Federal Collection Policies for Commercial Debt		*Form provided in FY 2017 Application Tool Kit.*
Assurance Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicants.		*Form provided in FY 2017 Application Tool Kit.*
Environmental Impact/Historic Preservation	7 CFR part 1794, and any successor regulation.	*Form provided in FY 2017 Application Tool Kit.*
Evidence of Legal Existence and Authority to Contract with the Federal Government.	7 CFR 1703.125(k)	*Documentation.*
Consultation with USDA State Director and State Strategic Plan Conformity.	*7 CFR 1703.125(m)*	*Documentation.*
Special Considerations	7 CFR 1703.125(p)	*Applicants seeking Special Consideration: Documentation supporting end user site is within a Trust Area, Tribal Jurisdiction Area, ''Strike Force'' Area, or Promise Zone.*

e. Number of copies of submitted applications.

i. Applications submitted on paper. Submit the original application and one (1) paper copy to RUS, as well as one digital copy on a CD/DVD or Flash Drive. Additionally, submit one (1) additional copy to the state government single point of contact as described below.

ii. Applications submitted electronically. Submit the electronic application once. The additional paper copy is unnecessary to send. Applicants should identify and number each page in the same manner as the paper application. Additionally, submit one (1) additional copy to the state government single point of contact as described below.

iii. State Government Single Point of Contact. Submit one (1) copy to the state government single point of contact, if one has been designated, at the same time as application submission to the Agency. If the project is located in more than one State, submit a copy to each state government single point of contact.

3. *Dun and Bradstreet Universal Numbering System (DUNS) Number.* The applicant for a grant must supply a Dun and Bradstreet Data Universal Numbering System (DUNS) number as part of the application. The applicant can obtain the DUNS number free of charge by calling Dun and Bradstreet. Go to *http://fedgov.dnb.com/webform* for more information on DUNS number acquisition or confirmation.

4. *System for Award Management (SAM).* Prior to submitting a paper or an electronic application, the applicant must register in the System for Award Management (SAM) at *https://www.sam.gov/portal/public/SAM/.* Throughout the RUS application review and the active Federal grant funding period, SAM registration must be active with current data at all times. To maintain active SAM registration, the applicant must review and update the information in the SAM database annually from the date of initial registration or from the date of the last update. The applicant must ensure that the information in the database is current, accurate, and complete.

5. *Submission Dates and Times.*

a. Paper applications must be postmarked and mailed, shipped, or sent overnight no later than July 17, 2017 to be eligible for FY 2017 grant funding. Late applications, applications which do not include proof of mailing or shipping, and incomplete applications are not eligible for FY 2017 grant funding. In the event of an incomplete application, the Agency will notify the applicant in writing, return the application, and terminate all further action.

i. Address paper applications to the Telecommunications Program, RUS, U.S. Department of Agriculture, 1400 Independence Ave. SW., Room 2844, STOP 1597, Washington, DC 20250–1597 Applications should be marked, ''Attention: Deputy Assistant Administrator, Office of Loan Origination and Approval.''

ii. Paper applications must show proof of mailing or shipping by the deadline consisting of one of the following:

A. A legibly dated U.S. Postal Service (USPS) postmark;

B. A legible mail receipt with the date of mailing stamped by the USPS; or

C. A dated shipping label, invoice, or receipt from a commercial carrier.

iii. Due to screening procedures at the U.S. Department of Agriculture, packages arriving via regular mail through the USPS are irradiated, which can damage the contents and delay delivery to the DLT Program. RUS encourages applicants to consider the impact of this procedure in selecting their application delivery method.

b. Electronic grant applications must be received no later than July 17, 2017 to be eligible for FY 2017 funding. Late or incomplete applications will not be eligible for FY 2017 grant funding.

i. Applications will not be accepted via fax or electronic mail.

ii. Electronic applications for grants must be submitted through the Federal government's *Grants.gov* initiative at *http://www.grants.gov/. Grants.gov* contains full instructions on all required passwords, credentialing and software.

iii. *Grants.gov* requires some credentialing and online authentication procedures. These procedures may take several business days to complete. Therefore, the applicant should complete the registration, credentialing, and authorization procedures at *Grants.gov* before submitting an application.

iv. Applicants must obtain a Dun and Bradstreet Data Universal Numbering System (DUNS) number as well as have current registration with the System for Award Management (SAM). Further information on DUNS and SAM can be found in sections D(3) and D(4) of this notice as well as in the FY 2017 Application Guide.

v. If system errors or technical difficulties occur, use the customer support resources available at the *Grants.gov* Web site.

c. If the submission deadline falls on Saturday, Sunday, or a Federal holiday, the application is due the next business day.

6. *Intergovernmental Review.*

The DLT Grant Program is subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' As stated in section D(2)(e)(iii) of this notice, a copy of a DLT grant application must be submitted to the state single point of contact, if one has been designated.

7. *Funding Restrictions.*

a. Hub sites not located in rural areas are not eligible for grant assistance unless they are necessary to provide DLT services to end-users in rural areas. See 7 CFR 1703.101(h).

b. Table of Ineligible and Eligible Items. The following table includes a list of common items and whether each item is eligible for financial assistance. Applicants should exclude ineligible items and ineligible matching contributions from the budget unless those items are clearly documented as vital to the project. See the FY 2017 Application Guide for a recommended budget format and detailed budget compilation instructions.

	Grants
Lease or purchase of new eligible DLT equipment and facilities	Yes, equipment only.
Acquire new instructional programming that is capital asset	Yes.
Technical assistance, develop instructional material for the operation of the equipment, and engineering or environmental studies in the implementation of the project.	Yes, up to 10% of the grant.
Telemedicine or distance learning equipment or facilities necessary to the project.	Yes.
Vehicles using distance learning or telemedicine technology to deliver services.	No.
Teacher-student links located at the same facility	No.
Links between medical professionals located at the same facility	No.
Site development or building alteration, except for equipment installation and associated inside wiring.	No.
Land or building purchase	No.
Building Construction	No.
Acquiring telecommunications transmission facilities	No (such facilities are only eligible for DLT loans).
Internet services, telecommunications services or other forms of connectivity.	No.
Salaries, wages, benefits for medical or educational personnel	No.
Salaries or administrative expenses of applicant or project	No.
Recurring project costs or operating expenses	No (equipment & facility leases are not recurring project costs).
Electronic Medical Record Systems	No.
Equipment to be owned by the LEC or other telecommunications service provider, if the provider is the applicant.	No.
Duplicative distance learning or telemedicine services	No.
Any project that for its success depends on additional DLT financial assistance or other financial assistance that is not assured.	No.
Application Preparation Costs	No.
Other project costs not in regulation	No.
Cost (amount) of facilities providing distance learning broadcasting	No.
Reimburse applicants or others for costs incurred prior to RUS receipt of completed application.	No.

E. Application Review Information

1. *Criteria.*

Grants applications are scored competitively and are subject to the criteria listed below (total possible points: 235). See 7 CFR 1703.126 and the FY 2017 Application Guide for more information on the scoring criteria.

a. *Needs and Benefits Category.* An analysis addressing the challenges imposed by the following criteria and how the project proposes to address these issues, as well as, the local community involvement in planning and implementing the project (up to 55 points):

i. Economic characteristics.

ii. Educational challenges.

iii. Health care needs.

b. *Rurality Category.* Rurality of the proposed service area (up to 45 points).

c. *Economic Need Category.* Percentage of students eligible for the National School Lunch Plan (NSLP) in the proposed service area (up to 35 points).

d. *Leveraging Category.* Matching funds above the required matching level (up to 35 points).

e. *Innovativeness Category.* Level of innovation demonstrated by the project (up to 15 points).

f. *Cost Effectiveness Category.* System cost-effectiveness (up to 35 points).

g. *Special Consideration Areas Category.* Application must contain at least one end-user site within a trust area or a tribal jurisdiction area, within a ''Promise Zone,'' or within a ''Strike Force'' area (15 points).

2. *Review and Selection Process.*

Grant applications are ranked by the final score. RUS selects applications based on those rankings, subject to the availability of funds. In addition, the Agency has the authority to limit the number of applications selected in any one state or for any one project during a fiscal year. See 7 CFR 1703.127 for a description of the grant application selection process. In addition, it should be noted that an application receiving fewer points can be selected over a higher scoring application in the event that there are insufficient funds available to cover the costs of the higher scoring application, as stated in 7 CFR 1703.172(b)(3).

a. In addition to the scoring criteria that rank applications against each other, the Agency evaluates grant applications on the following items, in accordance with 7 CFR 1703.127:

i. Financial feasibility. A proposal that does not indicate financial feasibility or that is not sustainable will not be approved for an award.

ii. Technical considerations. An application that contains flaws that would prevent the successful implementation, operation, or sustainability of the project will not be approved for an award.

iii. Other aspects of proposals that contain inadequacies that would undermine the ability of the project to comply with the policies of the DLT Program.

b. *Special considerations or preferences.*

i. American Samoa, Guam, Virgin Islands, and Northern Mariana Islands applications are exempt from the matching requirement for awards having a match amount of up to $200,000 (see 48 U.S.C. 1469a; 91 Stat. 1164).

ii. Tribal Jurisdiction or Trust Areas. RUS will offer special consideration to applications that contain at least one end-user site within a trust area or a tribal jurisdictional area. Such applications will be awarded 15 points. The application must include a map that shows the end-user site(s) located in the trust or tribal jurisdictional areas and cites the geographical coordinates and physical address(es) of the end-user site(s). The applicant will also need to submit evidence indicating that the area where the end-user site is located is a trust area or a tribal jurisdictional area. See the DLT Grant Program regulation as well as the FY 2017 Application Guide for a list of accepted documentation.

iii. ''Promise Zone'' Areas. RUS will offer special consideration to applications that contain at least one end-user site within a ''Promise Zone'' area. Such applications will be awarded 15 points. The application must include a map that shows the end-user site(s) located in the ''Promise Zone'' area and cites the geographical coordinates and physical address(es) of the end-user site(s). Current ''Promise Zones'' include the South Carolina Low Country, Choctaw Nation, Pine Ridge Indian Reservation, and the Kentucky Highlands. For further information, see the ''Promise Zone'' Web site at *http://www.hud.gov/promisezones/.*

iv. ''Strike Force'' Areas. RUS will offer special consideration to applications that contain at least one end-user site within a ''Strike Force'' area. Such applications will be awarded 15 points. The application must include a map that shows the end-user site(s) located in the ''Strike Force'' area and cites the geographical coordinates and physical address(es) of the end-user site(s). For further information, see the ''Strike Force'' Web site at *http://www.usda.gov/wps/portal/usda/usdamobile?navid=STRIKE_FORCE.*

c. *Clarification:* DLT grant applications which have non-fixed end-user sites, such as ambulance and home health care services, are scored according to the location of the hub or hubs used for the project. For Hybrid Projects which combine a non-fixed portion of a project to a fixed portion of a project, the Rurality Score and NSLP score will be based on the score of the end sites of the fixed portion plus the score of the hub that serves the non-fixed portion. See the FY 2017 Application Guide for specific guidance on preparing an application with non-fixed end users.

F. Federal Award Administration Information

1. *Federal Award Notices*

RUS notifies applicants whose projects are selected for awards by mailing or emailing a copy of an award letter. The receipt of an award letter does not authorize the applicant to commence performance under the award. After sending the award letter, the Agency will send an agreement that contains all the terms and conditions for the grant. A copy of the standard agreement is posted on the RUS Web site at *https://www.rd.usda.gov/programs-services/distance-learning-telemedicine-grants.* An applicant must execute and return the grant agreement, accompanied by any additional items required by the agreement, within the number of days specified in the selection notice letter.

2. *Administrative and National Policy Requirements*

The items listed in Section E of this notice, the DLT Grant Program regulation, FY 2017 Application Guide and accompanying materials implement the appropriate administrative and national policy requirements, which include but are not limited to:

a. Executing a Distance Learning and Telemedicine Grant Agreement.

b. Using Form SF 270, ''Request for Advance or Reimbursement,'' to request reimbursements (along with the submission of receipts for expenditures, timesheets, and any other documentation to support the request for reimbursement).

c. Providing annual project performance activity reports until the expiration of the award.

d. Ensuring that records are maintained to document all activities and expenditures utilizing DLT grant funds and matching funds (receipts for expenditures are to be included in this documentation).

e. Providing a final project performance report.

f. Complying with policies, guidance, and requirements as described in the following applicable Code of Federal Regulations, and any successor regulations:

i. 2 CFR parts 200 and 400 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards).

ii. 2 CFR parts 417 and 180 (Government-wide Nonprocurement Debarment and Suspension).

g. Signing Form AD–3031 (''Assurance Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicants'') (for corporate applicants only).

h. Signing Form 266 Assurance Agreement. Each prospective recipient must sign Form RD 400–4, Assurance Agreement, which assures USDA that

the recipient is in compliance with Title VI of the Civil Rights Act of 1964, 7 CFR part 15 and other Agency regulations. That no person will be discriminated against based on race, color or national origin, in regard to any program or activity for which the recipient receives Federal financial assistance. That nondiscrimination statements are in advertisements and brochures.

i. Collect and maintain data provided by ultimate recipients on race, sex, and national origin and ensure Ultimate Recipients collect and maintain this data. Race and ethnicity data will be collected in accordance with OMB **Federal Register** notice, ''Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity, ''(62 FR 58782), October 30, 1997. Sex data will be collected in accordance with Title IX of the Education Amendments of 1972. These items should not be submitted with the application but should be available upon request by the Agency.

j. The applicant and the ultimate recipient must comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, Age Discrimination Act of 1975, Executive Order 12250, Executive Order 13166 Limited English Proficiency (LEP), and 7 CFR part 1901, subpart E.

k. Complying with Executive Order 13166, ''Improving Access to Services for Persons with Limited English Proficiency.'' For information on limited English proficiency and agency-specific guidance, go to *http://www.LEP.gov.*

3. *Reporting*

a. Performance reporting. All recipients of DLT financial assistance must provide annual performance activity reports to RUS until the project is complete and the funds are expended. A final performance report is also required; the final report may serve as the last annual report. The final report must include an evaluation of the success of the project in meeting the DLT Grant Program objectives. See 7 CFR 1703.107 for additional information on these reporting requirements.

b. Financial reporting. All recipients of DLT financial assistance must provide an annual audit, beginning with the first year in which a portion of the financial assistance is expended. Audits are governed by United States Department of Agriculture audit regulations. See 7 CFR 1703.108 and 2 CFR part 200 (Subpart F) for a description of the financial reporting requirements.

c. Recipient and Sub-recipient Reporting. The applicant must have the necessary processes and systems in place to comply with the reporting requirements for first-tier sub-awards and executive compensation under the Federal Funding Accountability and Transparency Act of 2006 in the event the applicant receives funding unless such applicant is exempt from such reporting requirements pursuant to 2 CFR 170.110(b). The reporting requirements under the Transparency Act pursuant to 2 CFR part 170 are as follows:

i. First Tier Sub-Awards of $25,000 or more (unless they are exempt under 2 CFR part 170) must be reported by the Recipient to *https://www.fsrs.gov* no later than the end of the month following the month the obligation was made. Please note that currently underway is a consolidation of eight federal procurement systems, including the Federal Sub-award Reporting System (FSRS), into one system, the System for Award Management (SAM). As a result the FSRS will soon be consolidated into and accessed through *https://www.sam.gov/portal/public/SAM/.*

ii. The Total Compensation of the Recipient's Executives (the five most highly compensated executives) must be reported by the Recipient (if the Recipient meets the criteria under 2 CFR part 170) to *https://www.sam.gov/portal/public/SAM/* by the end of the month following the month in which the award was made.

iii. The Total Compensation of the Sub-recipient's Executives (the five most highly compensated executives) must be reported by the Sub-recipient (if the Sub-recipient meets the criteria under 2 CFR part 170) to the Recipient by the end of the month following the month in which the sub-award was made.

d. Record Keeping and Accounting. The contract will contain provisions related to record keeping and accounting requirements.

G. Federal Awarding Agency Contacts

1. *Web site: http://www.rd.usda.gov/programs-services/distance-learning-telemedicine-grants.* The DLT Web site maintains up-to-date resources and contact information for DLT programs.

2. *Telephone:* 202–720–0800.

3. *Fax:* 1–844–885–8179.

4. *Email: dltinfo@wdc.usda.gov.*

5. *Main point of contact:* Shawn Arner, Deputy Assistant Administrator, Office of Loan Origination and Approval, Rural Utilities Service, U.S. Department of Agriculture.

H. Other Information

1. *USDA Non-Discrimination Statement.*

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *http://www.ascr.usda.gov/complaint_filing_cust.html* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by:

(1) *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250–9410;

(2) *Fax:* (202) 690–7442; or,

(3) *Email: program.intake@usda.gov.*

USDA is an equal opportunity provider, employer, and lender.

Christopher A. McLean,

Acting Administrator, Rural Utilities Service.

[FR Doc. 2017–09852 Filed 5–15–17; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Idaho Advisory Committee To Vote on 2016 School Equity Report

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a meeting of the Idaho State Advisory Committee (Committee) to the Commission will be held at 1:30 p.m. (Mountain Time) Wednesday May 31, 2017, for the purpose of voting on a Committee report on school equity in the state.

DATES: The meeting will be held on Wednesday May 31, 2017, at 1:30 p.m. MST.

ADDRESSES: Public Call Information: Dial: 800–967–7137 Conference ID: 5356448.

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes at *afortes@usccr.gov* or (213) 894–3437.

SUPPLEMENTARY INFORMATION: This meeting is available to the public through the following toll-free call-in number: 800–967–7137, conference ID number: 5356448. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the Western Regional Office, U.S. Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012. They may be faxed to the Commission at (213) 894–0508, or emailed Ana Victoria Fortes at *afortes@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (213) 894–3437.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at *http://facadatabase.gov/committee/meetings.aspx?cid=245.*

Please click on the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda:

I. Welcome
II. Discussion of 2016 School Equity Report
III. Public Comment
IV. Adjournment

Dated: May 10, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–09825 Filed 5–15–17; 8:45 am]

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DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket Number 170403351–7351–01]

Current Mandatory Business Surveys

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of determination.

SUMMARY: The Bureau of the Census (U.S. Census Bureau) has determined that it is conducting the following current mandatory business surveys in 2017: Annual Retail Trade Survey, Annual Wholesale Trade Survey, Service Annual Survey, Company Organization Survey, Annual Survey of Manufactures, Manufacturers' Unfilled Orders Survey, Annual Capital Expenditures Survey, Business R&D and Innovation Survey, Annual Survey of Entrepreneurs, and the Business & Professional Classification Report. We have determined that data collected from these surveys are needed to aid the efficient performance of essential governmental functions and have significant application to the needs of the public and industry. The data derived from these surveys, most of which have been conducted for many years, are not publicly available from nongovernmental or other governmental sources.

ADDRESSES: The Census Bureau will make available the reporting instructions to the organizations included in the surveys. Additional copies are available upon written request to the Director, U.S. Census Bureau, Washington, DC 20233–0101.

FOR FURTHER INFORMATION CONTACT: Nick Orsini, Assistant Director for Economic Programs, U.S. Census Bureau, 5H160, Washington, DC 20233, Telephone: 301–763–2558; Email: *Nick.Orsini@census.gov.*

SUPPLEMENTARY INFORMATION: The surveys described herein are authorized by title 13, United States Code, sections 131 and 182 and are necessary to furnish current data on the subjects covered by the major censuses. These surveys are made mandatory under the provisions of sections 224 and 225 of title 13, United States Code. These surveys will provide continuing and timely national statistical data for the period between economic censuses. The data collected in the surveys will be within the general scope and nature of those inquiries covered in the economic census. The next economic census will be conducted in 2018 for the reference year 2017.

Annual Retail Trade Survey

The Annual Retail Trade Survey collects data on annual sales, sales tax, e-commerce sales, year-end inventories held inside and outside the United States, total operating expenses, purchases, and accounts receivable from a sample of employer firms with establishments classified in retail trade as defined by the North American Industry Classification System (NAICS). These data serve as a benchmark for the more frequent estimates compiled from the Monthly Retail Trade Survey. A new sample will be introduced for the collection of data covering the 2016 reference year.

Annual Wholesale Trade Survey

The Annual Wholesale Trade Survey collects data on annual sales, e-commerce sales, year-end inventories held both inside and outside of the United States, method of inventory valuation, total operating expenses, purchases, gross selling value, and commissions from a sample of employer firms with establishments classified in wholesale trade as defined by the North American Industry Classification System (NAICS). These data serve as a benchmark for the more frequent estimates compiled from the Monthly Wholesale Trade Survey. A new sample will be introduced for the collection of data covering the 2016 reference year.

Service Annual Survey

The Service Annual Survey collects annual data on total revenue, select detailed revenue, total and detailed expenses, and e-commerce revenue for a sample of businesses in the service industries, including Utilities; Transportation and Warehousing; Information; Finance and Insurance; Real Estate and Rental and Leasing; Professional, Scientific, and Technical Services; Administration and Support and Waste Management and Remediation Services; Educational Services; Health Care and Social Assistance; Arts, Entertainment, and Recreation; Accommodation and Food Services; and Other Services as defined by the North American Industry Classification System (NAICS). These data serve as a benchmark for the more frequent estimates compiled from the Quarterly Services Survey. A new sample will be introduced for the collection of data covering the 2016 reference year, beginning with data collection in January 2017.

Company Organization Survey

The Company Organization Survey collects annual data on ownership or control by a domestic or foreign parent and ownership of foreign affiliates; research and development; company activities such as employees from a professional employer organization, operational status, mid-March employment, first-quarter payroll, and annual payroll of establishments from a sample of multi-establishment enterprises in order to update and maintain a centralized, multipurpose Business Register (BR).

Annual Survey of Manufactures

The Annual Survey of Manufactures collects annual industry statistics, such as total value of shipments, employment, payroll, workers' hours, capital expenditures, cost of materials consumed, supplemental labor costs, and so forth. This survey is conducted on a sample basis, and covers all manufacturing industries, including data on plants under construction but not yet in operation. The ASM data are used to benchmark and reconcile monthly data on manufacturing production and inventories.

Manufacturers' Unfilled Orders Survey

The Manufacturers' Unfilled Orders Survey collects annual data on sales and unfilled orders in order to provide annual benchmarks for unfilled orders for the monthly Manufacturers' Shipments, Inventories, and Orders (M3) survey. The Manufacturers' Unfilled Orders Survey data are also used to determine whether it is necessary to collect unfilled orders data for specific industries on a monthly basis, as some industries are not requested to provide unfilled orders data in the M3 Survey.

Annual Capital Expenditures Survey

The Annual Capital Expenditures Survey collects annual data on the amount of business expenditures for new and used structures and equipment from a sample of non-farm, non-governmental companies, organizations, and associations. Both employer and nonemployer companies are included in the survey. The data are the sole source of investment in buildings and other structures, machinery, and equipment by all private nonfarm businesses in the United States, by the investing industry, and by kind of investment. Every five years, detailed data by types of structures and types of equipment are collected from companies with employees. These detailed data will be collected for the 2016 reference year, beginning with data collection in March 2017.

Business R&D and Innovation Survey

The Business R&D and Innovation Survey (BRDIS) collects annual data on spending for research and development activities by businesses. This survey replaced the Survey of Industrial Research and Development that had been collected since the 1950s. The BRDIS collects global as well as domestic spending information, more detailed information about the R&D workforce, and information regarding innovation and intellectual property from U.S. businesses. The Census Bureau collects and compiles this information in accordance with a joint project agreement between the National Science Foundation (NSF) and the Census Bureau. The NSF posts the joint project's information results on their Web site. Beginning in 2017, and for the 2016 reference year, the BRDIS will collect R&D and innovation statistics from micro businesses, or firms with less than 5 employees.

Annual Survey of Entrepreneurs

The Annual Survey of Entrepreneurs (ASE) collects annual data from a sample of employer firms on the characteristics of the business and business owner(s). Estimates are produced for the number of firms, sales/receipts, annual payroll, and employment by gender, ethnicity, race, and veteran status. The ASE introduces a new topical module each year to measure a relevant business component related to business productivity and growth. The module fielded in 2017 for reference year 2016 will cover business advice and planning and regulations. The ASE is a joint effort funded by the Ewing Marion Kauffman Foundation, the Minority Business Development Agency (MBDA), and the Census Bureau.

Business & Professional Classification Report

The Business & Professional Classification Report collects one-time data on a firm's type of business activity from a sample of newly organized employer firms. The data are used to update the sampling frames for our current business surveys to reflect these newly opened establishments. Additionally, the business classification data will help ensure businesses are directed to complete the correct report in the economic census.

Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number. In accordance with the PRA, 44 U.S.C., Chapter 45, OMB approved the surveys described in this notice under the following OMB control numbers: Annual Retail Trade Survey, 0607–0013; Annual Wholesale Trade Survey, 0607–0195; Service Annual Survey, 0607–0422; Company Organization Survey, 0607–0444; Annual Survey of Manufactures, 0607–0449; Manufacturers' Unfilled Orders Survey, 0607–0561; Annual Capital Expenditures Survey, 0607–0782; Business R&D and Innovation Survey, 0607–0912; Annual Survey of Entrepreneurs, 0607–0986; and Business & Professional Classification Report, 0607–0189.

Based upon the foregoing, I have directed that the current mandatory business surveys be conducted for the purpose of collecting these data.

Dated: May 8, 2017.

John H. Thompson,

Director, U.S. Census Bureau.

[FR Doc. 2017–09858 Filed 5–15–17; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–918]

Steel Wire Garment Hangers From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results of Administrative Review and New Shipper Review and Notice of Amended Final Results Pursuant to Court Decision

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

SUMMARY: The Court of International Trade (CIT or Court) sustained the final remand results pertaining to the fourth administrative review and new shipper review of the antidumping duty order on steel wire garment hangers from the People's Republic of China (PRC) covering the period of October 1, 2011, through September 30, 2012. The Department of Commerce (Department) is notifying the public that this case is not in harmony with the final results of the administrative review and new shipper review. Therefore, the Department is amending the final results with respect to the dumping margin assigned to Hangzhou Yingqing Material Co. Ltd. (Yingqing).

DATES: Effective May 1, 2017.

FOR FURTHER INFORMATION CONTACT: Jessica Weeks, AD/CVD Operations Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC, 20230; telephone: (202) 482–4877.

SUPPLEMENTARY INFORMATION:

Background

On June 2, 2014, the Department published its *AR4/NSR Final Results,*[1] which covered Shanghai Wells Hanger Co., Ltd, the PRC-wide entity, and Yingqing [2] as respondents.[3] Yingqing challenged certain aspects of the *AR4/NSR Final Results,* including the allocation of labor expenses when calculating surrogate financial ratios and whether the expense of obtaining a letter of credit should be included when valuing brokerage and handling (B&H).

On December 21, 2016, the Court remanded A*R4/NSR Final Results* for the Department to reconsider the allocation of labor costs in the surrogate financial ratios calculations [4] and to reconsider its refusal to deduct the expense of obtaining a letter of credit in light of information on the record.[5] In accordance with the Court's remand order, the Department reconsidered these issues and filed its Final Remand Results with the Court on March 17, 2017.[6] In the Final Remand Results, the Department provided further explanations concerning its allocation of labor costs and departure from its methodology in the fourth administrative review of certain steel nails from the PRC.[7] The Department also determined that record evidence supported deducting the cost of obtaining a letter of credit from the total amount of B&H expenses.[8] On April 21, 2017, the Court sustained the Department's Final Remand Results in *Hangzhou Yingqing Material*.[9]

Timken Notice

In its decision in *Timken,*[10] as clarified by *Diamond Sawblades,*[11] the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision that is not ''in harmony'' with a Department determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The Court's April 21, 2017, judgment in *Hangzhou Yingqing Material* constitutes a final decision of the Court that is not in harmony with the Department's *AR4/NSR Final Results*. This notice is published in fulfillment of the publication requirement of *Timken*. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise at issue pending expiration of the period to appeal or, if appealed, a final and conclusive court decision.

Amended Final Results

Because there is now a final court decision, the Department amends the *AR4/NSR Final Results* with respect to the companies identified below. Based on the Remand Results, as affirmed by the Court in *Hangzhou Yingqing Material,* the revised combination-rate weighted average-dumping margin for the companies listed below during the period October 1, 2011 through September 30, 2012 is as follows:

Exporter	Producer	Weighted-average margin (percent)
Hangzhou Yingqing Material Co. Ltd	Hangzhou Qingqing Mechanical Co. Ltd	40.39

In the event that the CIT's ruling is not appealed or, if appealed, is upheld by a final and conclusive court decision, the Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on unliquidated entries of subject merchandise based on the revised dumping margin listed above.

Cash Deposit Requirements

Because there is now a final court decision, we are amending the *AR4/NSR Final Results* and have revised the weighted-average dumping margin for the companies as shown above. As a result of the Final Remand Results, and as affirmed by the Court in *Hangzhou Yingqing Material,* the cash deposit rate for the companies listed above is 40.39%, effective May 1, 2017. The

[1] *See Steel Wire Garment Hangers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review, 2011–2012,* 79 FR 31298 (June 2, 2014) (*AR4/NSR Final Results*) and accompanying Issues and Decision Memorandum (IDM).

[2] Yingqing and Hangzhou Qingqing Mechanical Co., Ltd. are in an exporter/manufacturer combination rate. *See AR4/NSR Final Results* and accompanying IDM.

[3] The *AR4/NSR Final Results* and accompanying IDM pertain to both the fourth administrative review of steel wire garment hangers from the People's Republic of China and the aligned new shipper review of Yingqing.

[4] *See Hangzhou Yingqing Material Co.* v. *United States,* 195 F. Supp. 3d 1299, 1310–11 (CIT 2016).

[5] *Id.* at 1311–12.

[6] *See* Redetermination Pursuant to Court Remand Order in *Hangzhou Yingqing Material Co. Ltd. et al.* v. *United States,* Court No. 14–00133 (March 17, 2017) (Final Remand Results).

[7] *See* Final Remand Results at 9 and 10; *see also Certain Steel Nails from the People's Republic of China: Final Results of the Fourth Antidumping Duty Administrative Review,* 79 FR 19316 (April 8, 2014).

[8] *See* Final Remand Results at 11 and 12.

[9] *See Hangzhou Yingqing Material Co. and Hangzhou Qingqing Mechanical Co.* v. *United States,* Court No. 14–00133, Slip Op. 17–47 (CIT April 21, 2017) (*Hangzhou Yingqing Material*).

[10] *See Timken Co.* v. *United States,* 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*).

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

Department will instruct CBP accordingly.

Notification to Interested Parties

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

Dated: May 10, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–09871 Filed 5–15–17; 8:45 a.m.]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–874; C–570–059]

Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel From India and the People's Republic of China: Initiation of Countervailing Duty Investigations

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

DATES: Effective May 9, 2017.

FOR FURTHER INFORMATION CONTACT: Elfie Blum at (202) 482–0197 (India); Yasmin Bordas at (202) 482–3813 (the People's Republic of China), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On April 19, 2017, the U.S. Department of Commerce (the Department) received countervailing duty (CVD) Petitions concerning imports of certain cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) from India and the People's Republic of China (the PRC), filed in proper form on behalf of ArcelorMittal Tubular Products; Michigan Seamless Tube, LLC; PTC Alliance Corp.; Webco Industries, Inc.; and Zekelman Industries, Inc. (collectively, the petitioners). The CVD Petitions were accompanied by antidumping duty (AD) Petitions concerning imports of cold-drawn mechanical tubing from each of the above countries, in addition to Italy, Switzerland, the Federal Republic of Germany, and the Republic of Korea.[1] The petitioners are domestic producers of cold-drawn mechanical tubing.[2]

On April 24, 2017, the Department requested supplemental information pertaining to certain areas of the Petitions.[3] The petitioners filed responses to these requests on April 28, 2017.[4]

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that the Governments of India (GOI) and the PRC (GOC) are providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to imports of cold-drawn mechanical tubing from India and the PRC, respectively, and that such imports are materially injuring the domestic industry producing cold-drawn mechanical tubing in the United States. Also, consistent with section 702(b)(1) of the Act, for those alleged programs on which we are initiating a CVD investigation, the Petitions are accompanied by information reasonably available to the petitioners supporting their allegations.

The Department finds that the petitioners filed these Petitions on behalf of the domestic industry because the petitioners are interested parties as defined in section 771(9)(C) of the Act. The Department also finds that the petitioners demonstrated sufficient industry support with respect to the initiation of the CVD investigations that the petitioners are requesting.[5]

Periods of Investigation

Because the Petitions were filed on April 19, 2017, the period of investigation is January 1, 2016, through December 31, 2016.

Scope of the Investigations

The product covered by these investigations is cold-drawn mechanical tubing from India and the PRC. For a full description of the scope of these investigations, *see* the ''Scope of the Investigations,'' in Appendix I of this notice.

Comments on Scope of the Investigations

During our review of the Petitions, the Department issued questions to, and received responses from, the petitioners pertaining to the proposed scope to ensure that the scope language in the Petitions would be an accurate reflection of the products for which the domestic industry is seeking relief.[6]

As discussed in the preamble to the Department's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).[7] The Department will consider all comments received from interested parties and, if necessary, will consult with the interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information (*see* 19 CFR 351.102(b)(21)) all such factual information should be limited to public information. To facilitate preparation of its questionnaires, the Department requests all interested parties to submit such comments by 5:00 p.m. Eastern Time (ET) on Tuesday, May 30, 2017, which is 20 calendar days from the signature date of this notice.[8] Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on Thursday, June 8, 2017, which is 10 calendar days from the initial comments deadline.[9]

The Department requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party

[1] *See* ''Certain Cold-Drawn Mechanical Tubing Of Carbon And Alloy Steel from the People's Republic Of China, the Federal Republic of Germany, India, Italy, the Republic of Korea, and Switzerland—Petitions for the Imposition of Antidumping and Countervailing Duties,'' dated April 19, 2017 (the Petitions).

[2] *Id.,* Volume I of the Petitions, at 2.

[3] *See* Letter from the Department, ''Petition for the Imposition of Countervailing Duties on Imports of Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Supplemental Questions,'' dated April 24, 2017 (India CVD Supplemental Questionnaire); *see also* Letter from the Department, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China, the Federal Republic of Germany, India, Italy, the Republic of Korea, and Switzerland: Supplemental Questions,'' dated April 24, 2017 (General Issues Supplemental Questionnaire); *see also* Letter from the Department ''Petition for the Imposition of Countervailing Duties on Imports of Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the PRC: Supplemental Questions,'' dated April 24, 2017 (PRC CVD Supplemental Questionnaire).

[4] *See* Letter from the petitioners, ''Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India—Petitioners' Response to Supplemental Questionnaire Concerning Countervailing Duty Petition,'' dated April 28, 2017 (India CVD Supplement); *see also* Letter from the petitioners, ''Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India—Petitioners' Amendment to Volume I Relating to General Issues,'' dated April 28, 2017 (General Issues Supplement); *see also* Letter from Petitioners, ''Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China—Petitioners' Response to Supplemental Questionnaire Concerning Countervailing Duty Petition,'' dated April 28, 2017 (PRC CVD Supplement).

[5] *See* ''Determination of Industry Support for the Petition'' section, below.

[6] *See* General Issues Supplemental Questionnaire; *see also* General Issues Supplement.

[7] *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[8] The twenty-day deadline falls on May 29, 2017, a federal holiday; accordingly, our due date will be on the next business day.

[9] *See* 19 CFR 351.303(b).

subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact the Department and request permission to submit the additional information. All such comments must be filed on the records of each of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).[10] An electronically-filed document must be received successfully in its entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, the Department notified representatives of the GOI and the GOC of the receipt of the Petitions, and provided representatives of the GOI and the GOC the opportunity for consultations with respect to the CVD Petitions. Consultations with the GOC were held *via* conference call on May 5, 2017, and consultations with the GOI were held at the Department's main building on May 9, 2017.[11]

Determination of Industry Support for the Petitions

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,[12] they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[13]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petitions).

With regard to the domestic like product, the petitioners do not offer a definition of the domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that cold-drawn mechanical tubing, as defined in the scope, constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.[14]

In determining whether the petitioners have standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the ''Scope of the Investigations,'' in Appendix I of this notice. The petitioners provided 2016 production or U.S. shipments of the domestic like product for all supporters of the Petitions, and compared this to the estimated total production of the domestic like product for the entire domestic industry.[15] We relied on data the petitioners provided for purposes of measuring industry support.[16]

Our review of the data provided in the Petitions, General Issues Supplement, and other information readily available to the Department indicates that the petitioners have established industry support for the Petitions.[17] First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.,*

[10] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011), *see also Enforcement and Compliance: Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx,* and a handbook can be found at *https://access.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

[11] *See* Memorandum to the File regarding ''Ex-Parte Meeting with Officials from the Government of the People's Republic of China on the Countervailing Duty Petition on Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China,'' dated May 5, 2017. *See also* Memorandum to the File regarding ''Ex-Parte Meeting with Officials from the Government of India on the Countervailing Duty Petition on Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India,'' dated May 9, 2017.

[12] *See* section 771(10) of the Act.

[13] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[14] For a discussion of the domestic like product analysis in these cases, *see* Countervailing Duty Investigation Initiation Checklist: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China (PRC CVD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China, the Federal Republic of Germany, India, Italy, the Republic of Korea, and Switzerland (Attachment II); and Countervailing Duty Investigation Initiation Checklist: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India (India CVD Initiation Checklist), at Attachment II. These checklists are dated concurrently with this notice and on file electronically *via* ACCESS. Access to documents filed *via* ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

[15] *See* Volume I of the Petitions, at 2–3 and Exhibits GEN–3—GEN–5; *see also* General Issues Supplement, at 6–8 and Exhibits GEN–SUPP–3 and GEN–SUPP–4.

[16] *Id.* For further discussion, *see* PRC CVD Initiation Checklist and India CVD Initiation Checklist, at Attachment II.

[17] *See* PRC CVD Initiation Checklist and India CVD Initiation Checklist, at Attachment II.

polling).[18] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.[19] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.[20] Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

The Department finds that the petitioners filed the Petitions on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the CVD investigations that they are requesting that the Department initiate.[21]

Injury Test

Because India and the PRC are ''Subsidies Agreement Countries'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to these investigations. Accordingly, the ITC must determine whether imports of the subject merchandise from India and the PRC materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioners allege that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[22] In CVD petitions, section 771(24)(B) of the Act provides that imports of subject merchandise from developing and least developed countries must exceed the negligibility threshold of four percent. The petitioners also demonstrate that subject imports from India, which has been designated as a least developed country under section 771(36)(B) of the Act, exceed the negligibility threshold of four percent.[23]

The petitioners contend that the industry's injured condition is illustrated by reduced market share; underselling and price suppression or depression; lost sales and revenues; decreased production, capacity utilization, and U.S. shipments; declines in employment of production-related workers, wages paid, and hours worked; and declines in financial performance.[24] We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[25]

Initiation of CVD Investigations

Based on the examination of the CVD Petitions, we find that the Petitions meet the requirements of section 702 of the Act. Therefore we are initiating CVD investigations to determine whether imports of cold-drawn mechanical tubing from the PRC and India benefit from countervailable subsidies conferred by the governments of these countries. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

Under the Trade Preferences Extension Act of 2015, numerous amendments to the AD and CVD laws were made.[26] The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.[27] The amendments to sections 776 and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to these CVD investigations.[28]

India

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on all of the 32 alleged programs. For a full discussion of the basis for our decision to initiate on each program, *see* the India CVD Initiation Checklist.

The PRC

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on all of the 34 alleged programs. For a full discussion of the basis for our decision to initiate on each program, *see* the PRC CVD Initiation Checklist.

A public version of the initiation checklist for each investigation is available on ACCESS.

In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

Respondent Selection

The petitioners named 39 companies as producers/exporters of cold-drawn mechanical tubing in India and 91 in the PRC.[29] Following standard practice in CVD investigations, the Department will, where appropriate, select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of cold-drawn mechanical tubing during the POI under the appropriate Harmonized Tariff Schedule of the United States subheadings. We intend to release CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five business days of the announcement of the initiation of this investigation. Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications

[18] *See* section 702(c)(4)(D) of the Act; *see also* PRC CVD Initiation Checklist and India CVD Initiation Checklist, at Attachment II.

[19] *See* PRC CVD Initiation Checklist and India CVD Initiation Checklist, at Attachment II.

[20] *Id.*

[21] *Id.*

[22] *See* Volume I of the Petitions, at 15–16; *see also* General Issues Supplement, at 9 and Exhibit GEN–SUPP–5.

[23] *Id.*

[24] *Id.,* at 12–30 and Exhibits GEN–3, GEN–12 and GEN–14—GEN–17.

[25] *See* PRC CVD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China, the Federal Republic of Germany, India, Italy, the Republic of Korea, and Switzerland (Attachment III); and India CVD Initiation Checklist, at Attachment III.

[26] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

[27] *See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015,* 80 FR 46793 (August 6, 2015) (*Applicability Notice*). The 2015 amendments may be found at *https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl.*

[28] *See Applicability Notice,* 80 FR at 46794–95.

[29] *See* Petition, Volume I at Exhibit I–7.

may be found on the Department's Web site at *http://enforcement.trade.gov/apo.*

Interested parties may submit comments regarding the CBP data and respondent selection by 5:00 p.m. ET on the seventh calendar day after publication of this notice. Interested pParties wishing to submit rebuttal comments should submit those comments five calendar days after the deadline for initial comments.

Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the date noted above. If respondent selection is necessary, within 20 days of publication of this notice, we intend to make our decisions regarding respondent selection based upon comments received from interested parties and our analysis of the record information.

Distribution of Copies of the Petitions

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the GOI and GOC *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of cold-drawn mechanical tubing from India and the PRC are materially injuring, or threatening material injury to, a U.S. industry.[30] A negative ITC determination will result in the investigations being terminated.[31] Otherwise, these investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). 19 CFR 351.301(b) requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted [32] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[33] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301 expires. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these investigations.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[34] Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.[35] The Department intends to reject factual submissions if the submitting party does not comply with the applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act.

Dated: May 9, 2017.

Gary Taverman,

Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

Scope of the Investigations

The scope of these investigations covers cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) of circular cross-section, in actual outside diameters less than 331 mm, and regardless of wall thickness, surface finish, end finish or industry specification. The subject cold-drawn mechanical tubing is a tubular product with a circular cross-sectional shape that has been cold-drawn or otherwise cold-finished after the initial tube formation in a manner that involves a change in the diameter or wall thickness of the tubing, or both. The subject cold-drawn mechanical tubing may be produced from either welded (*e.g.,* electric resistance welded, continuous welded, etc.) or seamless (*e.g.,* pierced, pilgered or extruded, etc.) carbon or alloy steel tubular products. It may also be heat treated after cold working. Such heat treatments may include, but are not limited to, annealing, normalizing, quenching and

[30] *See* section 703(a)(2) of the Act.

[31] *See* section 703(a)(1) of the Act.

[32] *See* 19 CFR 351.301(b).

[33] *See* 19 CFR 351.301(b)(2).

[34] *See* section 782(b) of the Act.

[35] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (''*Final Rule*''); *see also* frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

tempering, stress relieving or finish annealing. Typical cold-drawing methods for subject merchandise include, but are not limited to, drawing over mandrel, rod drawing, plug drawing, sink drawing and similar processes that involve reducing the outside diameter of the tubing with a die or similar device, whether or not controlling the inside diameter of the tubing with an internal support device such as a mandrel, rod, plug or similar device.

Subject cold-drawn mechanical tubing is typically certified to meet industry specifications for cold-drawn tubing including but not limited to:

(1) American Society for Testing and Materials (ASTM) or American Society of Mechanical Engineers (ASME) specifications ASTM A–512, ASTM A–513 Type 3 (ASME SA513 Type 3), ASTM A–513 Type 4 (ASME SA513 Type 4), ASTM A–513 Type 5 (ASME SA513 Type 5), ASTM A–513 Type 6 (ASME SA513 Type 6), ASTM A–519 (cold-finished);

(2) SAE International (Society of Automotive Engineers) specifications SAE J524, SAE J525, SAE J2833, SAE J2614, SAE J2467, SAE J2435, SAE J2613;

(3) Aerospace Material Specification (AMS) AMS T–6736 (AMS 6736), AMS 6371, AMS 5050, AMS 5075, AMS 5062, AMS 6360, AMS 6361, AMS 6362, AMS 6371, AMS 6372, AMS 6374, AMS 6381, AMS 6415;

(4) United States Military Standards (MIL) MIL–T–5066 and MIL–T–6736;

(5) foreign standards equivalent to one of the previously listed ASTM, ASME, SAE, AMS or MIL specifications including but not limited to:

(a) German Institute for Standardization (DIN) specifications DIN 2391–2, DIN 2393–2, DIN 2394–2);

(b) European Standards (EN) EN 10305–1, EN 10305–2, EN 10305–4, EN 10305–6 and European national variations on those standards (*e.g.,* British Standard (BS EN), Irish Standard (IS EN) and German Standard (DIN EN) variations, etc.);

(c) Japanese Industrial Standard (JIS) JIS G 3441 and JIS G 3445; and

(6) proprietary standards that are based on one of the above-listed standards.

The subject cold-drawn mechanical tubing may also be dual or multiple certified to more than one standard. Pipe that is multiple certified as cold-drawn mechanical tubing and to other specifications not covered by this scope, is also covered by the scope of these investigations when it meets the physical description set forth above.

Steel products included in the scope of these investigations are products in which: (1) Iron predominates, by weight, over each of the other contained elements; and (2) the carbon content is 2 percent or less by weight.

For purposes of this scope, the place of cold-drawing determines the country of origin of the subject merchandise. Subject merchandise that is subject to minor working in a third country that occurs after drawing in one of the subject countries including, but not limited to, heat treatment, cutting to length, straightening, nondestruction testing, deburring or chamfering, remains within the scope of the investigations.

All products that meet the written physical description are within the scope of these investigations unless specifically excluded or covered by the scope of an existing order. Merchandise that meets the physical description of cold-drawn mechanical tubing above is within the scope of the investigations even if it is also dual or multiple certified to an otherwise excluded specification listed below. The following products are outside of, and/or specifically excluded from, the scope of these investigations:

(1) Cold-drawn stainless steel tubing, containing 10.5 percent or more of chromium by weight and not more than 1.2 percent of carbon by weight;

(2) products certified to one or more of the ASTM, ASME or American Petroleum Institute (API) specifications listed below:

- ASTM A–53;
- ASTM A–106;
- ASTM A–179 (ASME SA 179);
- ASTM A–192 (ASME SA 192);
- ASTM A–209 (ASME SA 209);
- ASTM A–210 (ASME SA 210);
- ASTM A–213 (ASME SA 213);
- ASTM A–334 (ASME SA 334);
- ASTM A–423 (ASME SA 423);
- ASTM A–498;
- ASTM A–496 (ASME SA 496);
- ASTM A–199;
- ASTM A–500;
- ASTM A–556;
- ASTM A–565;
- API 5L; and
- API 5CT

except that any cold-drawn tubing product certified to one of the above excluded specifications will not be excluded from the scope if it is also dual- or multiple-certified to any other specification that otherwise would fall within the scope of these investigations.

The products subject to the investigations are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.31.3000, 7304.31.6050, 7304.51.1000, 7304.51.5005, 7304.51.5060, 7306.30.5015, 7306.30.5020, 7306.50.5030. Subject merchandise may also enter under numbers 7306.30.1000 and 7306.50.1000. The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigations is dispositive.

[FR Doc. 2017–09869 Filed 5–15–17; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–602–811, C–351–851, C–834–808]

Silicon Metal From Australia, Brazil, and Kazakhstan: Postponement of Preliminary Determinations of Countervailing Duty Investigations

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

DATES: Effective May 16, 2017.

FOR FURTHER INFORMATION CONTACT: Katherine Johnson at (202) 482–4929 (Australia and Brazil); and Terre Keaton at (202) 482–1280 (Kazakhstan), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On March 28, 2017, the Department of Commerce (Department) initiated countervailing duty investigations (CVD) on silicon metal from Australia, Brazil, and Kazakhstan.[1] Currently, the preliminary determinations of these investigations are due no later than June 1, 2017.

Postponement of Preliminary Determination

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the preliminary determination in a CVD investigation within 65 days after the date on which the Department initiated the investigation. However, if the petitioner makes a timely request for a postponement, section 703(c)(1)(A) of the Act allows the Department to postpone making the preliminary determination until no later than 130 days after the date on which the Department initiated the investigation.

On May 2, 2017, the petitioner[2] submitted timely requests, pursuant to section 703(c)(1)(A) of the Act and 19 CFR 351.205(e), to postpone the preliminary determinations.[3] For the reasons stated above and because there are no compelling reasons to deny the requests, the Department, in accordance with section 703(c)(1)(A) of the Act, is postponing the deadline for the preliminary determinations to no later than 130 days after the day on which the investigations were initiated. Accordingly, the Department will issue the preliminary determinations no later than August 5, 2017. However, because August 5, 2017, falls on a Saturday, the preliminary determinations will be due no later than August 7, 2017.[4] In accordance with section 705(a)(1) of the

[1] *See Silicon Metal from Australia, Brazil, and Kazakhstan: Initiation of Countervailing Duty Investigations,* 82 FR 16356 (April 4, 2017).

[2] Globe Specialty Metals, Inc.

[3] *See* letters from the petitioner entitled ''Silicon Metal from Australia, Brazil, and Kazakhstan; Countervailing Duty Investigations; Request for Postponement of Preliminary Determinations,'' dated May 2, 2017.

[4] *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

Act and 19 CFR 351.210(b)(1), the deadline for the final determinations of these investigations will continue to be 75 days after the date of the preliminary determinations, unless postponed at a later date.

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: May 10, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–09872 Filed 5–15–17; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–845, A–533–873, A–475–838, A–580–892, A–570–058, A–441–801]

Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel From the Federal Republic of Germany, India, Italy, the Republic of Korea, the People's Republic of China, and Switzerland: Initiation of Less-Than-Fair-Value Investigations

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

DATES: Effective May 9, 2017.

FOR FURTHER INFORMATION CONTACT: Frances Veith at (202) 482–4295, or Shanah Lee at (202) 482–6386 (Federal Republic of Germany (Germany)), Omar Qureshi at (202) 482–5307 (India), Laurel LaCivita at (202) 482–4243 (Italy), Annathea Cook at (202) 482–0250 (Republic of Korea (Korea)), Paul Stolz at (202) 482–4474 (People's Republic of China), and Amanda Brings at (202) 482–3927 (Switzerland), AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On April 19, 2017, the U.S. Department of Commerce (the Department) received antidumping duty (AD) Petitions concerning imports of certain cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) from Germany, India, Italy, Korea, the People's Republic of China (the PRC), and Switzerland, filed in proper form on behalf of ArcelorMittal Tubular Products; Michigan Seamless Tube, LLC; PTC Alliance Corp.; Webco Industries, Inc.; and Zekelman Industries, Inc. (collectively, the petitioners).[1] The AD Petitions were accompanied by countervailing duty (CVD) Petitions on imports from India and the PRC. The petitioners are domestic producers of cold-drawn mechanical tubing.[2]

On April 24, 2017, the Department requested additional information and clarification of certain areas of the Petitions.[3] The petitioners filed responses to these requests on April 28, 2017.[4]

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that imports of cold-drawn mechanical tubing from Germany, India, Italy, Korea, the PRC, and Switzerland are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioners supporting their allegations.

The Department finds that the petitioners filed these Petitions on behalf of the domestic industry because the petitioners are interested parties as defined in section 771(9)(C) of the Act. The Department also finds that the petitioners demonstrated sufficient industry support with respect to the initiation of the AD investigations that the petitioners are requesting.[5]

Periods of Investigation

Because the Petitions were filed on April 19, 2017, the period of investigation (POI) for all investigations except the PRC is April 1, 2016, through March 31, 2017. Because the PRC is a non-market economy (NME) country, the POI for that investigation is October 1, 2016, through March 31, 2017.

Scope of the Investigations

The product covered by these investigations is cold-drawn mechanical tubing from Germany, India, Italy, Korea, the PRC, and Switzerland. For a full description of the scope of these investigations, *see* the ''Scope of the Investigations,'' in Appendix I of this notice.

Comments on Scope of the Investigations

During our review of the Petitions, the Department issued questions to, and received responses from, the petitioners pertaining to the proposed scope to ensure that the scope language in the Petitions would be an accurate reflection of the products for which the domestic industry is seeking relief.[6]

As discussed in the preamble to the Department's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).[7] The Department will consider all comments received from parties and, if necessary, will consult with parties prior to the issuance of the preliminary

[1] *See* ''Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China, the Federal Republic of Germany, India, Italy, the Republic of Korea, and Switzerland—Petitions for the Imposition of Antidumping and Countervailing Duties'' (April 19, 2017) (the Petitions).

[2] *See* Volume I of the Petitions, at 2.

[3] *See* Letter from the Department, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China, the Federal Republic of Germany, India, Italy the Republic of Korea and Switzerland: Supplemental Questions,'' dated April 24, 2017 (General Iussues Supplement); *see also* Petition for the Imposition of Antidumping Duties on Imports of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: Supplemental Questions; *and* Petition for the Imposition of Antidumping Duties on Imports of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the Federal Republic of Germany: Supplemental Questions; *and* Petition for the Imposition of Antidumping Duties on Imports of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Supplemental Questions; *and* Petition for the Imposition of Antidumping Duties on Imports of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from Italy: Supplemental Questions; *and* Petition for the Imposition of Antidumping Duties on Imports of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from Switzerland: Supplemental Questions. All of these documents are dated April 24, 2017. *See also* country-specific memoranda to the file ''Telephone Call to Foreign Market Researcher Regarding Antidumping Petition.''

[4] *See* Letter from the petitioners, ''Certain Cold-Drawn Mechancial Tubing of Carbon and Alloy Steel from the People's Republic of China, the Federal Republic of Germany, India, Italy, the Republic of Korea and Switzerland: Petitioners' Amendment to Volume I Relating to General Issues;'' *see also* ''Certain Cold-Drawn Mechanical Tubing from the People's Republic of China: Petitioners' Response to Questions Concerning the Antidumping Duty Petition;'' *and* ''Certain Cold-Drawn Mechanical Tubing from the Federal Republic of Germany: Petitioners' Response to Questions Concerning the Antidumping Duty Petition;'' *and* ''Certain Cold-Drawn Mechanical Tubing from India: Petitioners' Response to Questions Concerning the Antidumping Duty Petition;'' *and* ''Certain Cold-Drawn Mechanical Tubing from India: Petitioners' Response to Questions Concerning the Antidumping Duty Petition;'' *and* ''Certain Cold-Drawn Mechanical Tubing from the Italy: Petitioners' Response to Questions Concerning the Antidumping Duty Petition;'' *and* ''Certain Cold-Drawn Mechanical Tubing from the Republic of Korea: Petitioners' Response to Questions Concerning the Antidumping Duty Petition;'' *and* ''Cold-Drawn Mechanical Tubing from Switzerland: Response to the Department's Supplemental Petition Questions.'' Each of these documents is dated April 28, 2017.

[5] *See* the ''Determination of Industry Support for the Petitions'' section, below.

[6] *See* General Issues Supplement, at 1–6 and Exhibits GEN–SUPP–1 and GEN–SUPP–2.

[7] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

determinations. If scope comments include factual information (*see* 19 CFR 351.102(b)(21)), all such factual information should be limited to public information. To facilitate preparation of its questionnaires, the Department requests all interested parties to submit such comments by 5:00 p.m. Eastern Time (ET) on Tuesday, May 30, 2017, which is the next business day after 20 calendar days from the signature date of this notice.[8] Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on Friday, June 9, 2017, which is 10 calendar days from the deadline for initial comments.[9]

The Department requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact the Department and request permission to submit the additional information. All such comments must be filed on the records of each of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).[10] An electronically-filed document must be received successfully in its entirety by the time and date when it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

[8] The twenty-day deadline falls on May 29, 2017, a federal holiday; accordingly, our due date will be on the next business day.

[9] *See* 19 CFR 351.303(b).

[10] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

Comments on Product Characteristics for AD Questionnaires

The Department will provide interested parties an opportunity to comment on the appropriate physical characteristics of cold-drawn mechanical tubing to be reported in response to the Department's AD questionnaires. This information will be used to identify the key physical characteristics of the merchandise under consideration in order to report the relevant costs of production accurately as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics and (2) product-comparison criteria. We note that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe cold-drawn mechanical tubing, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on May 30, 2017, which is the first business day after 20 calendar days from the signature date of this notice. Any rebuttal comments, must be filed by 5:00 p.m. ET on June 9, 2017. All comments and submissions to the Department must be filed electronically using ACCESS, as explained above, on the records of the Germany, India, Italy, Korea, PRC, and Switzerland less-than-fair-value investigations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,[11] they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[12]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petitions).

With regard to the domestic like product, the petitioners do not offer a definition of the domestic like product

[11] *See* section 771(10) of the Act.

[12] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that cold-drawn mechanical tubing, as defined in the scope, constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.[13]

In determining whether the petitioners have standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the ''Scope of the Investigations,'' in Appendix I of this notice. The petitioners provided 2016 production or U.S. shipments of the domestic like product for all supporters of the Petitions, and compared this to the estimated total production of the domestic like product for the entire domestic industry.[14] We relied on data the petitioners provided for purposes of measuring industry support.[15]

Our review of the data provided in the Petitions, General Issues Supplement, and other information readily available to the Department indicates that the petitioners have established industry support for the Petitions.[16] First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.,* polling).[17] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.[18] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.[19] Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

The Department finds that the petitioners filed the Petitions on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the AD investigations that they are requesting that the Department initiate.[20]

Allegations and Evidence of Material Injury and Causation

The petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, the petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[21]

The petitioners contend that the industry's injured condition is illustrated by reduced market share; underselling and price suppression or depression; lost sales and revenues; decreased production, capacity utilization, and U.S. shipments; declines in employment of production-related workers, wages paid, and hours worked; and declines in financial performance.[22] We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[23]

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate AD investigations of imports of cold-drawn mechanical tubing from Germany, India, Italy, Korea, the PRC, and Switzerland. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the country-specific initiation checklists.

Export Price

For India, Italy, Korea, and the PRC, the petitioners based U.S. price on export price (EP) using price quotes for sales of cold-drawn mechanical tubing produced in, and exported from, the subject county and offered for sale in the United States.[24] For Switzerland, the petitioners based EP on average unit values (AUVs) of publicly available import data.[25] Where applicable, the petitioners made deductions from U.S. price for movement expenses, consistent

[13] For a discussion of the domestic like product analysis in these cases, *see* Antidumping Duty Investigation Initiation Checklist: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China (PRC AD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China, the Federal Republic of Germany, India, Italy, the Republic of Korea, and Switzerland (Attachment II); Antidumping Duty Investigation Initiation Checklist: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the Federal Republic of Germany (Germany AD Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India (India AD Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from Italy (Italy AD Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the Republic of Korea (Korea AD Initiation Checklist), at Attachment II; and Antidumping Duty Investigation Initiation Checklist: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from Switzerland (Switzerland AD Initiation Checklist), at Attachment II. These checklists are dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

[14] *See* Volume I of the Petitions, at 2–3 and Exhibits GEN–3—GEN–5; *see also* General Issues Supplement, at 6–8 and Exhibits GEN–SUPP–3 and GEN–SUPP–4.

[15] *Id.* For further discussion, *see* PRC AD Initiation Checklist, Germany AD Initiation Checklist, India AD Initiation Checklist, Italy AD Initiation Checklist, Korea AD Initiation Checklist, and Switzerland AD Initiation Checklist, at Attachment II.

[16] *See* PRC AD Initiation Checklist, Germany AD Initiation Checklist, India AD Initiation Checklist, Italy AD Initiation Checklist, Korea AD Initiation Checklist, and Switzerland AD Initiation Checklist, at Attachment II.

[17] *See* section 732(c)(4)(D) of the Act; *see also* PRC AD Initiation Checklist, Germany AD Initiation Checklist, India AD Initiation Checklist, Italy AD Initiation Checklist, Korea AD Initiation Checklist, and Switzerland AD Initiation Checklist, at Attachment II.

[18] *See* PRC AD Initiation Checklist, Germany AD Initiation Checklist, India AD Initiation Checklist, Italy AD Initiation Checklist, Korea AD Initiation Checklist, and Switzerland AD Initiation Checklist, at Attachment II.

[19] *Id.*

[20] *Id.*

[21] *See* Volume I of the Petitions, at 15–16; *see also* General Issues Supplement, at 9 and Exhibit GEN–SUPP–5.

[22] *Id.,* at 12–30 and Exhibits GEN–3, GEN–12 and GEN–14—GEN–17.

[23] *See* PRC AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China, the Federal Republic of Germany, India, Italy, the Republic of Korea, and Switzerland (Attachment III); Germany AD Initiation Checklist, at Attachment III; India AD Initiation Checklist, at Attachment III; Italy AD Initiation Checklist, at Attachment III; Korea AD Initiation Checklist, at Attachment III; and Switzerland AD Initiation Checklist, at Attachment III.

[24] *See* India AD Initiation Checklist, Italy AD Initiation Checklist, PRC AD Initiation Checklist, and Korea AD Initiation Checklist.

[25] *See* Switzerland AD Initiation Checklist.

with the terms of sale, and for a reseller markup.[26]

Constructed Export Price

For Germany, the petitioners had reason to believe that the first transaction relating to the entry of goods into the United States was to a U.S. affiliate. Therefore, the petitioners based constructed export price (CEP) on a sales offer which was obtained from a confidential source.[27] The petitioners made deductions from U.S. price for foreign movement expenses and U.S. importer's selling expenses to derive a net ex-factory CEP.

Normal Value

For Germany, India, Italy, Korea, and Switzerland, the petitioners provided home market price information obtained through market research for cold-drawn mechanical tubing produced in, and offered for sale in, each of these countries.[28] For all five of these countries, the petitioners provided a declaration from a market researcher for the price information.[29] Where applicable, the petitioners made deductions for movement expenses and imputed credit expenses, consistent with the terms of sale.[30]

For Germany, Italy, Korea, and Switzerland, the petitioners also provided information that sales of cold-drawn mechanical tubing in the respective home markets were made at prices below the cost of production (COP). With respect to Germany, Italy, Korea, and Switzerland, the petitioners calculated NV based on home market prices and constructed value (CV).[31] For further discussion of COP and NV based on CV, *see* below.[32]

With respect to the PRC, the petitioners stated that the Department has found the PRC to be a NME country in prior administrative proceedings in which the PRC has been involved.[33] In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Accordingly, the NV of the product for the PRC is appropriately based on factors of production (FOPs) valued in a surrogate market economy country, in accordance with section 773(c) of the Act.[34] In the course of this investigation, all parties, and the public, will have the opportunity to provide relevant information related to the granting of separate rates to individual exporters.

The petitioners claim that Mexico is an appropriate surrogate country because it is a market economy country that is at a level of economic development comparable to that of the PRC, it is a significant producer of comparable merchandise, and public information from Mexico is available to value all material input factors.[35] Based on the information provided by the petitioners, we determine that it is appropriate to use Mexico as a surrogate country for initiation purposes. Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

Factors of Production

Because information regarding the volume of inputs consumed by the PRC producers/exporters is not available, the petitioners relied on the production experience of a domestic producer of cold-drawn mechanical tubing in the United States as an estimate of Chinese manufacturers' FOPs.[36] The petitioners valued the estimated FOPs using surrogate values from Mexico and used the average POI exchange rate to convert the data to U.S. dollars.[37]

Normal Value Based on Constructed Value

Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing (COM), SG&A, financial expenses, and packing expenses. The petitioners calculated COM based on the experience of a surrogate producer, adjusted for known differences between the surrogate producer and the producer(s) of the respective country (*i.e.,* Germany, Italy, Korea, and Switzerland), during the proposed POI.[38] Using publicly available data to account for price differences, the petitioners multiplied the surrogate usage quantities by the submitted value of the inputs used to manufacture cold-drawn mechanical tubing in each country.[39] For Germany, Italy, Korea, and Switzerland, labor and energy rates were derived from publicly available sources multiplied by the product-specific usage rates.[40] For Germany, Italy, Korea, and Switzerland, to determine factory overhead, the petitioners relied on the financial statements of companies they asserted were producers of identical or comparable merchandise operating in the respective foreign country or on their own experience for repairs and maintenance and other factory overhead. For SG&A, and financial expense rates, the petitioners relied on financial statements of companies they asserted were producers of identical or comparable merchandise operating in the respective foreign country.[41]

For Germany, Italy, Korea, and Switzerland, because certain home market prices fell below COP, pursuant to sections 773(a)(4), 773(b), and 773(e) of the Act, as noted above, the petitioners also calculated NVs based on CV for those countries.[42] Pursuant to section 773(e) of the Act, CV consists of the COM, SG&A, financial expenses, packing expenses, and profit. The petitioners calculated CV using the same average COM, SG&A, and financial expenses, to calculate COP.[43] The petitioners relied on the financial statements of the same producers that they used for calculating manufacturing overhead, SG&A, and financial expenses to calculate the profit rate.[44]

Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of cold-drawn mechanical tubing from Germany, India, Italy, Korea, the PRC, and Switzerland are

[26] *See* India AD Initiation Checklist, Italy AD Initiation Checklist, Korea AD Initiation Checklist, PRC AD Initiation Checklist, and Switzerland AD Initiation Checklist.

[27] *See* Germany AD Initiation Checklist.

[28] *See* Germany AD Initiation Checklist, India AD Initiation Checklist, Italy AD Initiation Checklist, Korea AD Initiation Checklist, and Switzerland AD Initiation Checklist.

[29] *Id.*

[30] *Id.*

[31] *See* Germany AD Initiation Checklist, Italy AD Initiation Checklist, Korea AD Initiation Checklist, and Switzerland AD Initiation Checklist.

[32] In accordance with section 505(a) of the Trade Preferences Extension Act of 2015, amending section 773(b)(2) of the Act, for all of the investigations, the Department will request information necessary to calculate the CV and COP to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product. The Department no longer requires a COP allegation to conduct this analysis.

[33] *See* Volume II of the Petition, at 4–5.

[34] *See* PRC AD Initiation Checklist.

[35] *See* Volume II of the Petition, at 5–6, Exhibit AD–PRC–3.A, B, and C, and Petition Supplement at 4–5 and Exhibit AD–PRC–Supp–5.

[36] *Id.,* at 6 and Exhibit AD–PRC–4.B.

[37] *See* Volume II of the Petition at, 6–7 and Exhibit AD–PRC–4.D.

[38] *See* Germany AD Initiation Checklist, Italy AD Initiation Checklist, Korea AD Initiation Checklist, and Switzerland AD Initiation Checklist.

[39] *Id.*

[40] *Id.*

[41] *Id.*

[42] *Id.*

[43] *Id.*

[44] *Id.*

being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of EP, or CEP, to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for cold-drawn mechanical tubing are as follows: (1) Germany ranges from 77.70 to 209.06 percent; [45] (2) India is 33.80 percent; [46] (3) Italy ranges from 37.08 to 68.95 percent; [47] (4) Korea ranges from 12.00 to 48.00 percent; [48] (5) the PRC ranges from 87.58 to 186.89 percent; [49] and (6) Switzerland ranges from 38.02 to 52.21.[50]

Initiation of Less-Than-Fair-Value Investigations

Based upon the examination of the AD Petitions, we find that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of cold-drawn mechanical tubing from Germany, India, Italy, Korea, the PRC, and Switzerland are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Under the the Trade Preferences Extension Act of 2015, numerous amendments to the AD and CVD law were made.[51] The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.[52] The amendments to sections 771(15), 773, 776, and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to these AD investigations.[53]

[45] *See* Germany AD Initiation Checklist.

[46] *See* India AD Initiation Checklist.

[47] *See* Italy AD Initiation Checklist.

[48] *See* Korea AD Initiation Checklist.

[49] *See* PRC AD Initiation Checklist.

[50] *See* Switzerland AD Initiation Checklist.

[51] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

[52] *See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015,* 80 FR 46793 (August 6, 2015).

[53] *Id.* at 46794–95. The 2015 amendments may be found at *https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl.*

Respondent Selection

The petitioners identified eight companies in Germany,[54] 39 companies in India,[55] 12 companies in Italy,[56] 17 companies in Korea,[57] 91 companies in the PRC,[58] and three companies in Switzerland,[59] as producers/exporters of cold-drawn mechanical tubing. Following standard practice in AD investigations involving market economy countries, the Department will, where appropriate, select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of cold-drawn mechanical tubing during the respective POIs under the appropriate Harmonized Tariff Schedule subheadings. We intend to release CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five business days of the announcement of the initiation of this investigation. Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Department's Web site at *http://enforcement.trade.gov/apo.*

Interested parties may submit comments regarding the CBP data and respondent selection by 5:00 p.m. ET on the seventh calendar day after publication of this notice. Parties wishing to submit rebuttal comments should submit those comments five calendar days after the deadline for initial comments.

Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the date noted above. If respondent selection is necessary, within 20 days of publication of this notice, we intend to make our decisions regarding respondent selection based upon comments received from interested parties and our analysis of the record information.

With respect to the PRC, the petitioners named 12 PRC-producers/exporters as accounting for the majority of exports of cold-drawn mechanical tubing to the United States from the PRC.[60] In accordance with our standard practice for respondent selection in AD cases involving NME countries, we intend to issue quantity and value (Q&V) questionnaires to producers/exporters of merchandise subject to the investigation and, if necessary, base respondent selection on the responses received. For this investigation, the Department will request Q&V information from known exporters and producers identified, with complete contact information, in the Petition. In addition, the Department will post the Q&V questionnaire along with filing instructions on the Enforcement and Compliance Web site at *http://www.trade.gov/enforcement/news.asp.*

Producers/exporters of cold-drawn mechanical tubing from the PRC that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain a copy from the Enforcement & Compliance Web site. The Q&V response must be submitted by the relevant PRC exporters/producers no later than 5:00 p.m. ET on May 24, 2017. All Q&V responses must be filed electronically via ACCESS.

Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.[61] The specific requirements for submitting a separate-rate application in the PRC investigation are outlined in detail in the application itself, which is available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html.* The separate-rate application will be due 30 days after publication of this initiation notice.[62] Exporters and producers who submit a separate-rate application and have been selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of the Department's AD questionnaire as mandatory respondents. The Department requires that companies

[54] *See* Volume I at Exhibit GEN–11; and Germany AD Initiation Checklist.

[55] *Id.;* and India AD Initiation Checklist.

[56] *Id.,* and Italy AD Initiation Checklist.

[57] *Id.;* and Korea AD Initiation Checklist.

[58] *Id.;* and PRC AD Initiation Checklist.

[59] *Id.;* and Switzerland AD Initiation Checklist.

[60] Though the petitioners listed 91 ''known Chinese producers of subject mechanical tubing'' in Volume I of the Petition at Exhibit Gen–11, they clarified in the PRC-specific Volume II of the Petition that ''to the best of the petitioners' knowledge, cold-drawn mechanical tubing is manufactured in China and exported to the United States by several dozen companies, with the majority of exports coming from {12 listed producers and exporters for which company-specific information was attached}. *See* Volume II of the Petition at 1–2 and Exhibit AD–PRC–1.

[61] *See* Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving Non-Market Economy Countries (April 5, 2005), available at *http://enforcement.trade.gov/policy/bull05-1.pdf* (Policy Bulletin 05.1).

[62] Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that ''the Secretary may request any person to submit factual information at any time during a proceeding,'' this deadline is now 30 days.

from the PRC submit a response to both the Q&V questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. Companies not filing a timely Q&V response will not receive separate-rate consideration.

Use of Combination Rates

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.[63]

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A)(i) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the governments of Germany, India, Italy, Korea, the PRC, and Switzerland *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of cold-drawn mechanical tubing from Germany, India, Italy, Korea, the PRC, and Switzerland are materially injuring or threatening material injury to a U.S. industry.[64] A negative ITC determination for any country will result in the investigation being terminated with respect to that country;[65] otherwise, these investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). 19 CFR 351.301(b) requires that any party, when submitting factual information, must specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted[66] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[67] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these investigations.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[68] Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule.*[69] The Department intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed in 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: May 9, 2017.

Gary Taverman,

Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

Scope of the Investigations

The scope of these investigations covers cold-drawn mechanical tubing of carbon and

[63] *See* Policy Bulletin 05.1 at 6 (emphasis added).

[64] *See* section 733(a) of the Act.

[65] *Id.*

[66] *See* 19 CFR 351.301(b).

[67] *See* 19 CFR 351.301(b)(2).

[68] *See* section 782(b) of the Act.

[69] *See Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

alloy steel (cold-drawn mechanical tubing) of circular cross-section, in actual outside diameters less than 331 mm, and regardless of wall thickness, surface finish, end finish or industry specification. The subject cold-drawn mechanical tubing is a tubular product with a circular cross-sectional shape that has been cold-drawn or otherwise cold-finished after the initial tube formation in a manner that involves a change in the diameter or wall thickness of the tubing, or both. The subject cold-drawn mechanical tubing may be produced from either welded (*e.g.,* electric resistance welded, continuous welded, etc.) or seamless (*e.g.,* pierced, pilgered or extruded, etc.) carbon or alloy steel tubular products. It may also be heat treated after cold working. Such heat treatments may include, but are not limited to, annealing, normalizing, quenching and tempering, stress relieving or finish annealing. Typical cold-drawing methods for subject merchandise include, but are not limited to, drawing over mandrel, rod drawing, plug drawing, sink drawing and similar processes that involve reducing the outside diameter of the tubing with a die or similar device, whether or not controlling the inside diameter of the tubing with an internal support device such as a mandrel, rod, plug or similar device.

Subject cold-drawn mechanical tubing is typically certified to meet industry specifications for cold-drawn tubing including but not limited to:

(1) American Society for Testing and Materials (ASTM) or American Society of Mechanical Engineers (ASME) specifications ASTM A–512, ASTM A–513 Type 3 (ASME SA513 Type 3), ASTM A–513 Type 4 (ASME SA513 Type 4), ASTM A–513 Type 5 (ASME SA513 Type 5), ASTM A–513 Type 6 (ASME SA513 Type 6), ASTM A–519 (cold-finished);

(2) SAE International (Society of Automotive Engineers) specifications SAE J524, SAE J525, SAE J2833, SAE J2614, SAE J2467, SAE J2435, SAE J2613;

(3) Aerospace Material Specification (AMS) AMS T–6736 (AMS 6736), AMS 6371, AMS 5050, AMS 5075, AMS 5062, AMS 6360, AMS 6361, AMS 6362, AMS 6371, AMS 6372, AMS 6374, AMS 6381, AMS 6415;

(4) United States Military Standards (MIL) MIL–T–5066 and MIL–T–6736;

(5) foreign standards equivalent to one of the previously listed ASTM, ASME, SAE, AMS or MIL specifications including but not limited to:

(a) German Institute for Standardization (DIN) specifications DIN 2391–2, DIN 2393–2, DIN 2394–2);

(b) European Standards (EN) EN 10305–1, EN 10305–2, EN 10305–4, EN 10305–6 and European national variations on those standards (*e.g.,* British Standard (BS EN), Irish Standard (IS EN) and German Standard (DIN EN) variations, etc.);

(c) Japanese Industrial Standard (JIS) JIS G 3441 and JIS G 3445; and

(6) proprietary standards that are based on one of the above-listed standards.

The subject cold-drawn mechanical tubing may also be dual or multiple certified to more than one standard. Pipe that is multiple certified as cold-drawn mechanical tubing and to other specifications not covered by this scope, is also covered by the scope of these investigations when it meets the physical description set forth above.

Steel products included in the scope of these investigations are products in which: (1) Iron predominates, by weight, over each of the other contained elements; and (2) the carbon content is 2 percent or less by weight.

For purposes of this scope, the place of cold-drawing determines the country of origin of the subject merchandise. Subject merchandise that is subject to minor working in a third country that occurs after drawing in one of the subject countries including, but not limited to, heat treatment, cutting to length, straightening, nondestruction testing, deburring or chamfering, remains within the scope of the investigations.

All products that meet the written physical description are within the scope of these investigations unless specifically excluded or covered by the scope of an existing order. Merchandise that meets the physical description of cold-drawn mechanical tubing above is within the scope of the investigations even if it is also dual or multiple certified to an otherwise excluded specification listed below. The following products are outside of, and/or specifically excluded from, the scope of these investigations:

(1) Cold-drawn stainless steel tubing, containing 10.5 percent or more of chromium by weight and not more than 1.2 percent of carbon by weight;

(2) products certified to one or more of the ASTM, ASME or American Petroleum Institute (API) specifications listed below:

- ASTM A–53;
- ASTM A–106;
- ASTM A–179 (ASME SA 179);
- ASTM A–192 (ASME SA 192);
- ASTM A–209 (ASME SA 209);
- ASTM A–210 (ASME SA 210);
- ASTM A–213 (ASME SA 213);
- ASTM A–334 (ASME SA 334);
- ASTM A–423 (ASME SA 423);
- ASTM A–498;
- ASTM A–496 (ASME SA 496);
- ASTM A–199;
- ASTM A–500;
- ASTM A–556;
- ASTM A–565;
- API 5L; and
- API 5CT

except that any cold-drawn tubing product certified to one of the above excluded specifications will not be excluded from the scope if it is also dual- or multiple-certified to any other specification that otherwise would fall within the scope of these investigations.

The products subject to the investigations are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.31.3000, 7304.31.6050, 7304.51.1000, 7304.51.5005, 7304.51.5060, 7306.30.5015, 7306.30.5020, 7306.50.5030. Subject merchandise may also enter under numbers 7306.30.1000 and 7306.50.1000. The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigations is dispositive.

[FR Doc. 2017–09870 Filed 5–15–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–520–803]

Polyethylene Terephthalate Film, Sheet and Strip From the United Arab Emirates: Partial Rescission of Antidumping Duty Administrative Review; 2015–2016

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

DATES: Effective May 16, 2017.

FOR FURTHER INFORMATION CONTACT: Andrew Huston, Office VII, Antidumping and Countervailing Duty Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4261.

Background

On November 4, 2016, the Department of Commerce (the Department) published a notice of opportunity to request an administrative review of the antidumping duty (AD) order on polyethylene terephthalate film, sheet and strip from the United Arab Emirates covering the period November 1, 2015, through October 31, 2016.[1] The Department received a timely request from the petitioners [2] for an AD administrative review of two companies: JBF RAK LLC (JBF) and Flex Middle East FZE (Flex).[3] In addition, Polyplex USA LLC (Polyplex), a domestic interested party, submitted a timely request for an AD review of JBF and Uflex Limited (Uflex).[4] JBF submitted a timely request for an AD review of itself.[5] On January 13, 2017,

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 81 FR 76920 (November 4, 2016).

[2] DuPont Teijin Films, Mitsubishi Polyester Film, Inc., and SKC, Inc.

[3] *See* Petitioners' letter, ''Polyethylene Terephthalate Film, Sheet, and Strip from United Arab Emirates: Request for Antidumping Duty Administrative Review,'' dated November 30, 2016.

[4] *See* letter from Polyplex USA LLC, ''Polyethylene Terephthalate (PET) Film, Sheet, and Strip from United Arab Emirates: Request for Review,'' dated November 22, 2016.

[5] *See* JBF's letter, ''JBF RAK LLC/Request for A/D Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from United Arab Emirates (A–520–803),'' dated November 30, 2016.

pursuant to the requests from interested parties, the Department published a notice of initiation of administrative review with respect to Flex, Uflex, and JBF.[6] On April 13, 2017, the petitioners withdrew their requests for reviews of JBF and Flex.[7]

Rescission in Part

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party that requested the review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. The Department initiated the instant review on January 13, 2017 and the petitioners withdrew their request on April 13, 2017, which is within the 90-day period and is thus timely. Because the petitioners' withdrawal of their requests for review is timely and because no other party requested a review of Flex, we are rescinding this review, in part, with respect to Flex, in accordance with 19 CFR 351.213(d)(1). Polyplex did not withdraw its request for review of JBF and Uflex, and JBF did not withdraw its request for review of itself. As such, the instant review will continue with respect to Uflex and JBF.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess anti-dumping duties on all appropriate entries. Subject merchandise of Flex will be assessed antidumping duties at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period November 1, 2015, through October 31, 2016, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue assessment instructions to CBP 15 days after the date of publication of this notice.

Notification to Importers

This notice serves as a reminder to importers for whom this review is being rescinded, as of the publication date of this notice, of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent increase in the amount of antidumping duties assessed.

Notification Regarding Administrative Protective Orders

This notice also serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with section 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: May 11, 2017.

James Maeder,

Senior Director, Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–09873 Filed 5–15–17; 8:45 am]

BILLING CODE 3510–DS–P

[6] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 4294 (January 13, 2017).

[7] *See* Petitioners' letter ''Withdrawal of Request for Antidumping Duty Administrative Review,'' dated April 13, 2017.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF412

Marine Mammals; File No. 20311

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the NMFS Pacific Islands Fisheries Science Center (PIFSC), 1845 Wasp Boulevard, Building 176, Honolulu, HI 96818 (Responsible Party: Dr. Evan Howell), has applied in due form for a permit to conduct scientific research on marine mammals.

DATES: Written, telefaxed, or email comments must be received on or before June 15, 2017.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 20311 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Carrie Hubard or Sara Young, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

PIFSC request a five-year permit to permit to monitor the abundance, stock structure, distribution, movement patterns, and ecological relationships of cetaceans occurring in United States and international waters of the Pacific Islands Region. The study area includes the Hawaii archipelago, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Kingman Reef, Palmyra Atoll, Johnston Atoll, Wake Atoll, Howland Island, Baker Island, and Jarvis Island. Up to 34 cetacean species may be targeted for research, including the following endangered or threatened species/stocks: Blue (*Balaenoptera musculus*), fin (*B. physalus*), sei (*B. borealis*), humpback (*Megaptera novaeangliae*), North Pacific right (*Eubalaena japonica*), sperm (*Physeter macrocephalus*), and main Hawaiian Insular false killer (*Pseudorca crassidens*) whales. Research activities include aerial surveys with the use of manned and unmanned aircraft systems, vessel surveys, behavioral observations, photo-identification, acoustic recordings, biological sample collection,

and dart and suction cup tagging/telemetry studies. Please see the take table for numbers of animals requested by species.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: May 11, 2017.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–09865 Filed 5–15–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF383

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that an Exempted Fishing Permit application contains all of the required information and warrants further consideration. This Exempted Fishing Permit would allow eight commercial fishing vessels to be exempt from limited access sea scallop regulations in support of a study on seasonal bycatch distribution and optimal scallop meat yield on Georges Bank.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed Exempted Fishing Permits.

DATES: Comments must be received on or before May 31, 2017.

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

- *Email: nmfs.gar.efp@noaa.gov.* Include in the subject line ''DA17–032 CFF Georges Bank Optimization Study EFP.''
- *Mail:* John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''DA17–032 CFF Georges Bank Optimization Study EFP.''

FOR FURTHER INFORMATION CONTACT: Alyson Pitts, Fishery Management Specialist, 978–281–9352.

SUPPLEMENTARY INFORMATION: Coonamesset Farm Foundation (CFF) has submitted an exempted fishing permit (EFP) application in support of a project titled ''Optimizing the Georges Bank Scallop Fishery by Maximizing Meat Yield and Minimizing Bycatch,'' that has been funded under the 2017 Atlantic Sea Scallop Research Set-Aside (RSA) Program. The project will look primarily at seasonal distribution of bycatch on the eastern part of Georges Bank in relation to sea scallop meat weight yield. Additional objectives include continued testing of a modified scallop dredge bag design to reduce flatfish bycatch and collecting biological samples to examine scallop meat quality and yellowtail flounder liver disease. Project investigators working on this project would also work with New Hampshire Fish and Game (NHFG) and the Atlantic Offshore Lobstermen's Association (AOLA) to tag female lobsters.

To enable this research, CFF is requesting exemptions for eight commercial fishing vessels from the Atlantic sea scallop days-at-sea (DAS) allocations at 50 CFR 648.53(b); crew size restrictions at § 648.51(c); observer program requirements at § 648.11(g); Closed Area II (CAII) scallop gear restrictions specified at § 648.81(b); and access area program requirements at § 648.59(a)(1)–(3), (b)(2), (b)(4); Closed Area II Scallop Access Area Seasonal Closure at § 648.60(d)(2), and Closed Area II Extension Scallop Rotational Area at § 648.60(e). CFF has also requested that vessels be exempt from possession limits and minimum size requirements specified in 50 CFR part 648, subsections B and D through O for biological sampling, and § 697.20 for lobster sampling and tagging purposes only.

Participating vessels would conduct scallop dredging in a year-round seasonal study, from August, 2017 through June, 2018. Vessels will condust a total of eight 7-day trips, for a total of 56 DAS. Closed Area II Access Area tows would take place in the central portion situated below the Closed Area II Habitat Closure Area, including the northern portion of Atlantic Sea Closed Area II Scallop Access Area Seasonal Closure and the northern part of Closed Area II Extension Scallop Rotational Area. Open area tows would be conducted on the northern half of Georges Bank, west of the boundary of Closed Area II Access Area. The applicant also requested to conduct tows inside the Closed Area II Habitat Closure Area. NMFS does not support access to the Habitat Closure Area for this project until a final measures from the Omnibus Habitat Amendment II have been proposed and implemented by NMFS. This project is designed to ''optimize'' the harvest of scallops by the scallop fishery. Because this area remains closed to bottom-tending mobile gear to protect sensitive benthic habitat, it is premature to grant access at this time. If the scallop fishery is authorized to fish in this area through a future rule making, it may be appropriate to amend this EFP to allow research in this area, as the information could be useful to supporting scallop harvest decisions.

There is a potential for gear conflict with lobster gear in the central portion of Closed Area II. In an effort to help mitigate gear interactions, CFF would distribute the time and location of stations to the lobster industry, work only during daylight hours, post an extra lookout to avoid gear, and actively avoid tangling in stationary gear. We do not expect the DAS, crew size, possession limits, or minimum size exemptions to generate any controversy or concern about the potential catch of egg-bearing female lobsters in this area during the months of August-June. The project would work in cooperation in with NHFG and AOLA to tag lobsters with the primary goal of documenting their movement on and off Georges Bank. Data from the tagging project could also help answer questions of lobster discard mortality in the scallop fishery.

All tows would be conducted with two tandem 15-foot (4.6-m) turtle deflector dredges for a duration of 30 minutes using an average tow speed of 4.8 knots. One dredge would be rigged with a 7-row apron and twine top hanging ratio of 2:1, while the other dredge would be rigged with a 5-row apron and 1.5:1 twine top hanging ratio. Both dredge frames would be rigged with identical rock and tickler chain configurations, 10-inch (25.4-cm) twine top, and 4-inch (10.2-cm) ring bag. Gear

comparison data will help improve efforts to reduce scallop dredge bycatch.

For all tows the entire sea scallop catch would be counted into baskets and weighed. One basket from each dredge would be randomly selected and the scallops would be measured in 5-milimeter increments to determine size selectivity. All finfish catch would be sorted by species and then counted and measured. Weight, sex, and reproductive state would be determined for a random subsample (n=10) of yellowtail, winter, and windowpane flounders. Lobsters would be measured, sexed, and evaluated for damage and shell disease. No catch would be retained for longer than needed to conduct sampling and no finfish or lobsters would be landed for sale. All catch estimates for the project are listed in Table 1, below.

TABLE 1—COONAMESSETT FARM FOUNDATION GEORGES BANK SCALLOP RESEARCH PROJECT

Common name	Scientific name	Estimated weight (lbs) *	Estimated weight (kg)
Sea Scallop	*Placopecten magellanicus*	19,300	8,754
Yellowtail Flounder	*Limanda ferruginea*	1,200	544
Winter Flounder	*Pseudopleuronectes americanus*	1,500	680
Windowpane Flounder	*Scophthalmus aquosus*	4,000	1,814
Summer Flounder	*Paralichthys dentatus*	900	408
Fourspot Flounder	*Paralichthys oblongus*	130	58
American Plaice	*Hippoglossoides platessoides*	50	22
Grey Sole	*Glyptocephalus cynoglossus*	30	13
Haddock	*Melanogrammus aeglefinus*	70	31
Atlantic Cod	*Gadus morhua*	150	68
Monkfish	*Lophius americanus*	6,000	2,721
Spiny Dogfish	*Squalus acanthias*	130	58
Barndoor Skates	*Dipturus laevis*	870	394
NE Skate Complex (excluding barndoor skate)	*Leucoraja erinacea, Leucoraja ocellata*	80,000	36,287
American lobster	*Homarus americanus*	3,000	1,360

* Weights estimated using catch from a similar 2015 project.

CFF needs these exemptions to allow them to conduct experimental dredge towing without being charged DAS, as well as to deploy gear in areas that are currently closed to scallop fishing. Participating vessels need crew size waivers to accommodate science personnel. Possession waivers would enable researchers to sample finfish and lobster catch that exceeds possession limits or prohibitions. The project would be exempt from the sea scallop observer program requirements because activities conducted on the trip are not consistent with normal fishing operations. The goal of the proposed work is to provide information on spatial and temporal patterns in bycatch rates in the scallop fishery, with the objective of identifying mechanisms to mitigate bycatch. The data collected would enhance understanding of groundfish bycatch and scallop yield as they relate to access and open area management.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: May 11, 2017.

Karen H. Abrams,

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

[FR Doc. 2017–09876 Filed 5–15–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF361

Endangered Species; File No. 21318

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that NMFS has received an application from Mr. Mark F. Strickland, Public Service Enterprise Group Inc. (PSEG) for an incidental take permit (permit), pursuant to the Endangered Species Act (ESA) of 1973, as amended, for activities associated with the operation and decommissioning of Mercer Generating Station in Trenton, NJ. As required by the ESA, PSEG's application includes a conservation plan designed to minimize and mitigate the impacts of any take of endangered or threatened species. The permit application is for the incidental take of ESA-listed Atlantic sturgeon (*Acipenser oxyrinchus*) and shortnose sturgeon (*Acipenser brevirostrum*) associated with the withdrawal of cooling water from the Delaware River Estuary, the discharge of heat and other pollutants to the River associated with the operations of the facility, the transport of goods and materials to the station via barge or dredging necessary to support the Station's coal/natural gas fired units' operations, and the decommissioning of the coal/natural gas fired units.

NMFS is furnishing this notice in order to allow other agencies and the public an opportunity to review and comment on this document. All comments received will become part of the public record and will be available for review.

DATES: Written comments must be received at the appropriate address or fax number (see **ADDRESSES**) on or before June 15, 2017.

ADDRESSES: The application is available for download and review at *http://www.nmfs.noaa.gov/pr/permits/esa_review.htm* under the section heading ESA Section 10(a)(1)(B) Permits and Applications. The application is also available upon written request or by appointment in the following office: Endangered Species Conservation

Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13752, Silver Spring, MD 20910; phone (301) 427–8403; fax (301) 713–4060.

You may submit comments, identified by NOAA–NMFS–2017–0036 by any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0036* click the ''Comment Now'' icon, complete the required fields, and enter or attach your comments.
- *Fax:* (301) 713–4060; Attn: Ron Dean or Lisa Manning.
- *Mail:* Submit written comments to Endangered Species Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13535, Silver Spring, MD 20910; Attn: Ron Dean or Lisa Manning.

Instructions: You must submit comments by one of the above methods to ensure that we receive, document, and consider them. Comments sent by any other method, to any other address or individual, or received after the end of the comment period may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *http://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.) confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Ron Dean or Lisa Manning, (301) 427–8403.

SUPPLEMENTARY INFORMATION: Section 9 of the ESA and Federal regulations prohibit the 'taking' of a species listed as endangered or threatened. The ESA defines ''take'' to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may issue permits, under limited circumstances to take listed species incidental to, and not the purpose of, otherwise lawful activities. Section 10(a)(1)(B) of the ESA provides for authorizing incidental take of listed species. NMFS regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

Background

Pursuant to the ESA, NMFS reviewed in PSEG's September 2016 draft Application, including the analytical methods for estimating potential takes. After PSEG announced its plans to retire two existing coal/natural gas fired units, they provided estimates of potential takes due to entrainment associated with the operation of service water pumps during the decommissioning period, and an analysis of the potential effects of vessel traffic associated with the removal of coal presently on-site at the plant. PSEG submitted an updated application on March 7, 2017.

PSEG is requesting that this permit cover operations through the decommissioning of the coal/natural gas-fired units. The total duration of decommissioning is undetermined; however, PSEG expects to complete the decommissioning of the coal/natural gas fired units no later than March 1, 2022. The duration of the proposed permit is therefore 5 years.

PSEG's application addresses the Delaware River Estuary in the immediate vicinity of Mercer's cooling water intake structure, including the circulating water pumps and the service water pumps, the areas potentially occupied by the station's thermal discharge plume, other effluent waste streams, and vessel traffic associated with the removal of coal from the station during the pre-retirement and decommissioning Periods. The permit application is for the incidental take of ESA-listed Atlantic sturgeon (*Acipenser oxyrinchus*) and shortnose sturgeon (*Acipenser brevirostrum*).

For entrainment, during the pre-retirement period, ending on June 1, 2017, PSEG proposes a take limit based on statistical models and historical data of 60 age-1 equivalent (*i.e.* pre-migratory) shortnose sturgeon and 13 age-1 Atlantic sturgeon. The expected annual number of shortnose sturgeon entrained during the decommissioning period would be 0.8 and 0.9 age-1 equivalents, and 2 shortnose sturgeon age-1 equivalents per year. Due to the fragile nature of fish in the yolk-sac larval life stage, it is anticipated that any entrained yolk-sac larvae are likely to die.

For impingement, based on statistical models and historical data, PSEG proposes a pre-retirement period take limit of 13 Atlantic sturgeon and 13 shortnose sturgeon. For the decommissioning period, no Atlantic or shortnose sturgeon are expected to be impinged because circulating water pumps will not be operating and no more than two service water pumps will operate. The velocity through the traveling water screens will therefore be well below 0.5 fps which is the generally accepted threshold velocity for impingement. No incidental take is expected from any of the other activities covered in the application.

Conservation Plan

Section 10 of the ESA specifies that no permit may be issued unless an applicant submits an adequate habitat conservation plan. The conservation plan prepared by PSEG describes measures designed to minimize and mitigate the impacts of any incidental takes of ESA-listed Atlantic and shortnose sturgeon.

To avoid and minimize take of sturgeon during the pre-retirement period, PSEG proposes to only run Mercer's circulating water pumps when the station is generating electricity, when cooling water is needed for other essential station operations, for incidental maintenance, or as required by a governmental agency or other entity. PSEG also proposes to run the minimum number of service water pumps required to support essential operations when possible. These measures are intended to avoid and minimize the incidental take of sturgeon due to entrainment or impingement by eliminating or reducing water withdrawals.

PSEG also has modified traveling screens and a fish return. Sturgeon that encounter the traveling screens and become impinged will be transferred to the fish return sluice and transported in flowing water back to the Delaware River. During the pre-retirement period, PSEG proposes to operate each of the modified traveling screens continuously whenever they operate the associated circulating water pump. PSEG also proposes to implement an operating and maintenance plan for the modified traveling screens and fish return system to ensure that the system is operating properly to return sturgeon the River.

During the decommissioning period, Mercer will not operate circulating water pumps, and will therefore avoid any take of sturgeon due to impingement and entrainment. Mercer plans to operate up to two service water pumps for equipment cooling and fire safety requirements during the decommissioning period, but the through-screen velocity of the traveling water screen is less than 0.1 fps, which is below the velocity generally accepted to not pose a risk of impingement.

Funding required to support the implementation of this permit and its habitat conservation plan would be included as part of PSEG's standard budgeting process for regulatory compliance.

PSEG evaluated three alternatives: (1) Retrofitting the Station to operate with a closed cycle recirculating system

utilizing mechanical draft cooling towers; (2) installation of fine mesh screens and a fish return system; and (3) a ''no action'' alternative. The technologies considered have been previously evaluated by PSEG and have been shown to be impractical to implement at the station or disproportionately costly compared to any benefits realized, and were therefore rejected. PSEG's plan to discontinue operation of the existing coal/natural gas-fired generating units is consistent with the No Action Alternative in that no take would occur after the units are decommissioned.

National Environmental Policy Act

This notice is provided pursuant to section 10(c) of the ESA and the National Environmental Policy Act regulations (40 CFR 1506.6). NMFS will evaluate the application, associated documents, and submitted comments to determine whether the application meets the requirements of the ESA section 10(a)(1)(B) permitting process. If it is determined that the requirements are met, a permit will be issued for incidental takes of ESA-listed Atlantic and shortnose sturgeon.

The final permit determinations will not be completed until after the end of the 30-day comment period and will fully consider all public comments received during the comment period. NMFS will publish a record of its final action in the **Federal Register**.

Dated: May 11, 2017.

Angela Somma,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–09895 Filed 5–15–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF404

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Habitat Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Tuesday, May 30, 2017 at 10 a.m.

ADDRESSES: The meeting will be held at the Four Points by Sheraton, 1 Audubon Road, Wakefield, MA 01880; phone: (781) 245–9300.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Habitat Committee will review public comments on the Deep-Sea Coral Amendment, and make any final recommendations to the Council regarding preferred approaches for coral management. A separate meeting notice describes the hearing locations and process for submitting comments. The Council plans to take final action on the amendment during their June 20–22 meeting in Portland, ME. The Committee may draft comments on the potential environmental effects of offshore oil development on the Atlantic Outer Continental Shelf. Other business may be discussed as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

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

Dated: May 10, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–09833 Filed 5–15–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF386

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Ad Hoc Community Advisory Board (CAB) will hold a two-day meeting that is open to the public.

DATES: The CAB meeting will be begin Tuesday, May 30, 2017 at 10 a.m., and recess when business for the day is completed. It will continue at 8 a.m. Wednesday, May 31, adjourning when business for the day is completed.

ADDRESSES: The meeting will be held at the Sheraton Portland Airport Hotel, St. Helens Room, 8235 NE Airport Way, Portland, OR 97220. Telephone: (503) 281–2500.

Council address: Pacific Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Seger, Pacific Council; phone: (503) 820–2416.

SUPPLEMENTARY INFORMATION: The primary purpose of the CAB meeting is to review an initial draft of the trawl catch share program review document and to develop, for recommendation to the Pacific Council, a prioritized list of issues that would be pursued following completion of the review process in November 2017 (follow-on actions). The Pacific Council is scheduled to prioritize possible follow-on actions at its June 2017 meeting, with the aim of developing a range of alternatives for each issue by November 2017.

Although nonemergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meetings are physically accessible to people with disabilities.

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2425 at least 10 business days prior to the meeting date.

Dated: May 10, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–09830 Filed 5–15–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF381

Marine Mammals; File No. 20605

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Robin Baird, Ph.D., Cascadia Research Collective, 218½ West Fourth Avenue, Olympia, WA 98501, has applied in due form for a permit to conduct research on marine mammals.

DATES: Written, telefaxed, or email comments must be received on or before June 15, 2017.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 20605 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Shasta McClenahan or Carrie Hubard, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The applicant requests a 5-year permit to take marine mammals in the Atlantic and Pacific oceans to study population structure, size, range, movement rates and patterns, habitat use, social organization, diving behavior, diet, disease monitoring, behavior, and reactions to anthropogenic activity. Up to 53 species of cetaceans may be targeted for research including the following endangered, proposed endangered, or threatened species/stocks: blue (*Balaenoptera musculus*), Bryde's (*B. edeni*), bowhead (*Balaena mysticetus*), fin (*B. physalus*), Cook Inlet beluga (*Delphinapterus leucas*), Hawaiian insular false killer (*Pseudorca crassidens*), humpback (*Megaptera novaeangliae*), North Atlantic right (*Eubalaena glacialis*), North Pacific right (*E. japonica*), sei (*B. borealis*), Southern Resident killer (*Orcinus orca*), sperm (*Physeter macrocephalus*), and Western North Pacific gray (*Eschrichtius robustus*) whales. Researchers would conduct manned and unmanned aerial surveys for counts, observations, photography, photogrammetry, and video of cetaceans. Vessel surveys would be conducted for counts, passive acoustic recording, biological sampling, collection of prey remains, observation, photo-identification, photogrammetry, video, and suction-cup and dart tagging. Eight pinniped species including endangered Hawaiian monk seals (*Neomonachus schauinslandi*) and Steller sea lions (*Eumetopias jubatus*) may be harassed incidental to the research. Please see the take tables for numbers of animals requested by species.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: May 11, 2017.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–09898 Filed 5–15–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF390

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Wednesday, May 31, 2017 at 9:30 a.m.

ADDRESSES:

Meeting address: The meeting will be held at the Courtyard by Marriott Boston Logan Airport, 225 William McClennan Highway, Boston, MA 02128; phone: (617) 569–5250.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Scallop Advisory Panel will review the general workload for 2017 based on Council priorities and a draft action plan for Scallop Framework 29 (FW29) and potentially identify recommendations for prioritizing work items in upcoming actions. They will also review progress on potential management measures that may be included in FW29, including: (1) Flatfish accountability measures; (2) Modifications to the management of the Northern Gulf of Maine area; (3)

Measures to modify scallop access areas consistent with potential changes to habitat and groundfish mortality closed areas. The Panel will also discuss the establishment of a control date that may limit the ability of Limited Access General Category (LAGC) permit holders to move between permit categories. They will provide research recommendations for the 2018/2019 Scallop Research Set-Aside (RSA) federal funding announcement. Other business may be discussed as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

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

Dated: May 10, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–09831 Filed 5–15–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF366

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Seabird and Pinniped Research Activities in Central California, 2017–2018

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

ACTION: Proposed Incidental Harassment Authorization; request for comments

SUMMARY: NMFS has received an application from Point Blue Conservation Science (Point Blue) for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to seabird and pinniped research activities in central California. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to Point Blue to incidentally take marine mammals during the specified activities.

DATES: Comments and information must be received no later than June 15, 2017.

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

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

FOR FURTHER INFORMATION CONTACT: Robert Pauline, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the applications and supporting documents, as well as a list of the references cited in this document, may be obtained by visiting the Internet at: *www.nmfs.noaa.gov/pr/permits/incidental/research.htm.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings will be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

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

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Summary of Request

NMFS received a request from Point Blue for an IHA to take marine mammals incidental to seabird and marine mammal monitoring at three locations in central California. Point Blue's request was for harassment only and NMFS concurs that mortality is not expected to result from this activity. Therefore, an IHA is appropriate.

On March 7, 2017, NMFS received an application from Point Blue requesting the taking by harassment of marine mammals incidental to conducting seabird and marine mammal research activities on Southeast Farallon Island (SEFI), Año Nuevo Island (ANI), and Point Reyes National Seashore (PRNS). Point Blue, along with partners Oikonos Ecosystem Knowledge and PRNS, plan to conduct the proposed activities for one year. These partners are conducting this research under cooperative agreements with the U.S. Fish and Wildlife Service in consultation with the Gulf of the Farallones National

Marine Sanctuary. We considered the renewal for request for 2017–2018 activities as adequate and complete on April 7, 2017.

These proposed activities would occur in the vicinity of pinniped haul-out sites and could likely result in the incidental take of marine mammals. We anticipate take, by Level B harassment only, of individuals of California sea lions (*Zalophus californianus*), Pacific harbor seals (*Phoca vitulina*), northern elephant seals (*Mirounga angustirostris*), and Steller sea lions (*Eumetopias jubatus*) to result from the specified activity.

This is the organization's eighth request for an IHA. To date, we have issued authorizations to Point Blue (formerly known as PRBO Conservation Science) for the conduct of similar activities from 2007 to 2016 (72 FR 71121; December 14, 2007, 73 FR 77011; December 18, 2008, 75 FR 8677; February 19, 2010, 77 FR 73989; December 7, 2012, 78 FR 66686; November 6, 2013, 80 FR 80321; December 24, 2015, 81 FR 34978; June 1, 2016).

Description of Specified Activities

Overview

Point Blue proposes to monitor and census seabird colonies; observe seabird nesting habitat; restore nesting burrows; observe breeding elephant and harbor seals; and resupply a field station annually in central California (*i.e.,* SEFI, ANI, and PRNS). The purpose of the seabird research is to continue a 30-year monitoring program of the region's seabird populations. Point Blue's long-term pinniped research program monitors pinniped colonies to understand elephant and harbor seal population dynamics and to contribute to the conservation of both species. Level B take may occur due to incidental disturbance of pinnipeds by researchers during monitoring.

Dates and Duration

The proposed authorization would be effective from June 16, 2017 through May 15, 2018. Surveys are conducted year-round at the specified locations. At SEFI, seabird monitoring sites are visited ~1–3 times per day for a maximum of 500 visits per year. Most seabird monitoring visits are brief (~15 minutes), though seabird observers are present from 2–5 hours daily at North Landing from early April–early August each year to conduct observational studies on breeding common murres. Boat landings to re-supply the field station, lasting 1–3 hours, are conducted once every 2 weeks at one of the these locations. At ANI, research is conducted once/week April–August, with occasional intermittent visits made during the rest of the year. The maximum number of visits per year would be 20. Nesting habitat restoration and monitoring activities require sporadic visits from September–November, between the seabird breeding season and the elephant seal pupping season. Landings and visits to nest boxes are brief (~15 minutes). Research may occur during any month, with an emphasis during the seabird nesting season with occasional intermittent visits the rest of the year. The maximum number of visits per year is 20. Habitat restoration and monitoring work requires sporadic visits from September–November, between the seabird breeding season and the elephant seal pupping season.

Specified Geographic Region

Point Blue will conduct their research activities within the vicinity of pinniped haul-out sites in the following locations:

- *South Farallon Islands:* The South Farallon Islands consist of SEFI located at 37°41′54.32″ N.; 123°0′8.33″ W. and West End Island. The South Farallon Islands have a land area of approximately 120 acres (0.49 square kilometers (km^2)) and are part of the Farallon National Wildlife Refuge. The islands are located near the edge of the continental shelf 28 miles (mi) (45.1 km) west of San Francisco, CA, and lie within the waters of the Gulf of the Farallones National Marine Sanctuary;
- *Año Nuevo Island:* ANI is located at 37°6′29.25″ N.; 122°20′12.20″ W. is one-quarter mile (402 meters m) offshore of Año Nuevo Point in San Mateo County, CA. The island lies within the Monterey Bay National Marine Sanctuary and the Año Nuevo State Marine Conservation Area; and
- *Point Reyes National Seashore:* PRNS is approximately 40 miles (64.3 km) north of San Francisco Bay and also lies within the Gulf of the Farallones National Marine Sanctuary.

Detailed Description of Specified Activity

Southeast Farallon Islands

Point Blue has conducted year round wildlife research and monitoring activities at SEFI, part of the Farallon National Wildlife Refuge, since 1968. This work is conducted through a collaborative agreement with the United States Fish and Wildlife Service (USFWS). Research focuses on marine mammals and seabirds and includes procedures involved in maintaining the SEFI field station. These activities may involve the incidental take of marine mammals.

Seabird research activities involve observational and marking (*i.e.,* netting and banding for capture-mark-recapture) studies of breeding seabirds. Occasionally researchers may travel to coastal areas of the island to conduct observational seabird research where non-breeding marine mammals are present, which includes viewing breeding seabirds from an observation blind or censusing shorebirds, and usually involves one or two observers. Access to the refuge involves landing in small boats, 14–18 ft open motorboats, which are hoisted onto the island using a derrick system.

Most intertidal areas of the island, where marine mammals are present, are rarely visited in seabird research. Most potential for incidental take will occur at the island's two landings, North Landing and East Landing. At both landings, research stations are located more than 50 ft above any pinnipeds that may be present and are visited 1–3 times per day. These pinnipeds are primarily California sea lions or northern elephant seals, to a lesser extent harbor seals, and very rarely Steller sea lions. Boat landings to re-supply the field station, lasting 1–3 hours, are conducted once every 2 weeks at either the North or East Landing. Activities involve launching of the boat with one operator, with 2–4 other researchers assisting with the operations from land. At East Landing, the primary landing site, all personnel assisting with the landing stay on the loading platform 30 ft above the water. At North Landing, loading operations occur at the water level in the intertidal zone.

Año Nuevo Island

Point Blue has also conducted seabird research and monitoring activities on ANI, part of the Año Nuevo State Reserve, since 1992. Collaborations with Oikonos Ecosystem Knowledge began in 2001 to research seabird burrow nesting habitat quality and restoration. All work is conducted through a collaborative agreement with California State Parks. The island is accessed by 12 ft Zodiac boat. Non-breeding pinnipeds may occasionally be present on the small beach in the center of the island where the boat is landed. California sea lions may also occasionally be present near a small group of subterranean seabird nest boxes on the island terrace. There are usually 2–3 researchers involved in island visits.

Point Reyes National Seashore

The National Park Service (NPS) conducts research, resource management and routine maintenance services at PRNS. This involves both marine mammal research and seabird research and includes maintaining the facilities around the seashore. Habitat restoration of the seashore occurs and includes restoration and removal of non-native invasive plants and coastal dune habitat. Non-native plant removal is timed to avoid the breeding seasons of pinnipeds; however, on occasion non-breeding animals may be present at various beaches throughout the year. Additionally, elephant seals will haul out on human structures and block access to facilities. They are known to haul out on a boat ramp at the Life Boat Station and in various car parking lots around the seashore.

Research along the seashore includes monitoring seabird breeding and roosting colonies. Seabird monitoring usually involves one or two observers. Surveys are conducted by small boats, 14–22 ft open motorboats, that survey along the shoreline.

Most areas where marine mammals are present are never visited, excepting the landing beaches along Point Reyes headland. In all locations researchers are located more than 50 ft away from any pinnipeds that may be hauled out. Elephant seals may haul out on boat ramps and parking lots year round.

Description of Marine Mammals in the Area of Specified Activities

We have reviewed Point Blue's species information—which summarizes available information regarding status and trends, distribution and habitat preferences, behavior and life history of the potentially affected species—for accuracy and completeness and refer the reader to Sections 3 and 4 of the application, as well as to NMFS's Stock Assessment Reports (SAR; *www.nmfs.noaa.gov/pr/sars/*). Additional general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's Web site (*www.nmfs.noaa.gov/pr/species/mammals/*). Table 1 lists all species with expected potential for occurrence at SEFI, ANI, and PRNS and summarizes information related to the population or stock, including potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2016). PBR, defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population, is considered in concert with known sources of ongoing anthropogenic mortality to assess the population-level effects of the anticipated mortality from a specific project (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality are included here as gross indicators of the status of the species and other threats. For status of species, we provide information regarding U.S. regulatory status under the MMPA and the Endangered Species Act (ESA).

California (southern) sea otters (*Enhydra lutris nereis*), listed as threatened under the ESA and categorized as depleted under the MMPA, usually range in coastal waters within two km of shore. Point Blue has not encountered California sea otters on SEFI, ANI, or PRNS during the course of seabird or pinniped research activities over the past five years. This species is managed by the USFWS and is not considered further in this notice. Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock.

All managed stocks in this region are assessed in NMFS's 2015 U.S. Pacific Stock Assessment Report (Carretta *et al.,* 2016) or the 2015 Alaska Stock Assessment Report (Muto *et al.,* 2016). The most recent information regarding Steller sea lions may be found in 2016 Draft Alaska Stock Assessment Report (Muto *et al.,* 2016b). Four species have the potential to be incidentally taken during the proposed survey activities and are listed in Table 1. Values presented in Table 1 are from the 2015 SARs and draft 2016 SARs (available online at: *www.nmfs.noaa.gov/pr/sars/draft.htm*).

TABLE 1—MARINE MAMMALS POTENTIALLY PRESENT IN THE VICINITY OF STUDY AREAS

Species	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR [3]
California sea lion	*Zalophus californianus*	U.S	-; N	296,750 (n/a; 153,337; 2011).	9,200
Steller sea lion	*Eumetopias jubatus*	Eastern U.S	D; Y	71,562 (n/a; 41,638; 2015).	2,498
Harbor seal	*Phoca vitulina richardii*	California	-; N	30,968 (0.157; 27,348; 2012).	1,641
Northern elephant seal	*Mirounga angustirostris*	California breeding stock	-; N	179,000 (n/a; 81,368; 2010).	4,882

[1] ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA.

[2] CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable. For certain stocks of pinnipeds, abundance estimates are based upon observations of animals (often pups) ashore multiplied by some correction factor derived from knowledge of the specie's (or similar species') life history to arrive at a best abundance estimate; therefore, there is no associated CV. In these cases, the minimum abundance may represent actual counts of all animals ashore.

[3] Potential biological removal, defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population size (OSP).

Northern Elephant Seal

Northern elephant seals are not listed as threatened or endangered under the ESA, nor are they categorized as depleted or strategic under the MMPA. The estimated population of the California Breeding Stock is approximately 179,000 animals and the current population trend is increasing at

3.8 percent annually (Carretta *et al.,* 2016).

Northern elephant seals range in the eastern and central North Pacific Ocean, from as far north as Alaska to as far south as Mexico. Northern elephant seals spend much of the year, generally about nine months, in the ocean. They are usually underwater, diving to depths of about 1,000 to 2,500 ft (330–800 m) for 20- to 30-minute intervals with only short breaks at the surface. They are rarely seen out at sea for this reason. While on land, they prefer sandy beaches.

The northern elephant breeding population is distributed from central Baja California, Mexico to the Point Reyes Peninsula in northern California. Along this coastline there are 13 major breeding colonies. Northern elephant seals breed and give birth primarily on offshore islands (Stewart *et al.,* 1994), from December to March (Stewart and Huber, 1993). Males feed near the eastern Aleutian Islands and in the Gulf of Alaska, and females feed farther south, south of 45° N. (Stewart and Huber, 1993; Le Boeuf *et al.,* 1993). Adults return to land between March and August to molt, with males returning later than females. Adults return to their feeding areas again between their spring/summer molting and their winter breeding seasons.

At SEFI, the population consists of approximately 500 animals (FNMS 2013). Northern elephant seals began recolonizing the South Farallon Islands in the early 1970s (Stewart *et al.,* 1994) at which time the colony grew rapidly. In 1983 a record 475 pups were born on the South Farallones (Stewart *et al.,* 1994). Since then, the size of the South Farallones colony has declined, stabilizing in the early 2000s and then declining further over the past six years (USFWS 2013). In 2012, a total of 90 cows were counted on the South Farallones, and 60 pups were weaned (USFWS 2013). Point Blue's average monthly counts from 2000 to 2009 ranged from 20 individuals in July to nearly 500 individuals in November (USFWS 2013).

Northern elephant seals are present on the islands and in the waters surrounding the South Farallones year-round for either breeding or molting; however, they are more abundant during breeding and peak molting seasons (Le Boeuf and Laws, 1994; Sydeman and Allen, 1999). They live and feed in deep, offshore waters the remainder of the year.

In mid-December, adult males begin arriving on the South Farallones, closely followed by pregnant females on the verge of giving birth. Females give birth to a single pup, generally in late December or January (Le Boeuf and Laws, 1994) and nurse their pups for approximately four weeks (Reiter *et al.,* 1991). Upon pup weaning, females mate with an adult male and then depart the islands. The last adult breeders depart the islands in mid-March. The spring peak of elephant seals on the rookery occurs in April, when females and immature seals (approximately one to four years old) arrive at the colony to molt (a one month process) (USFWS 2013). The year's new pups remain on the island throughout both of these peaks, generally leaving by the end of April (USFWS 2013).

The lowest numbers of elephant seals present on the rookery occurs during June, July, and August, when sub-adult and adult males molt. Another peak of young seals return to the rookery for a haul-out period in October, and at that time some individuals undergo partial molt (Le Boeuf and Laws, 1994). At ANI the population ranges from 900 to 1,000 adults.

California Sea Lion

The estimated population of the U.S. stock of California sea lion is approximately 296,750 animals and the current maximum population growth rate is 12 percent (Carretta *et al.,* 2016). California sea lions are not listed as threatened or endangered under the ESA, nor are they categorized as depleted or strategic under the MMPA. California sea lion breeding areas are on islands located in southern California, in western Baja California, Mexico, and the Gulf of California. Rookery sites in southern California are limited to the San Miguel Islands and the southerly Channel Islands of San Nicolas, Santa Barbara, and San Clemente (Carretta *et al.,* 2016). Males establish breeding territories during May through July on both land and in the water. Females come ashore in mid-May and June where they give birth to a single pup approximately four to five days after arrival and will nurse pups for about a week before going on their first feeding trip. Females will alternate feeding trips with nursing bouts until the pup is weaned between four and 10 months of age (NMML 2010).

Adult and juvenile males will migrate as far north as British Columbia, Canada while females and pups remain in southern California waters in the non-breeding season. In warm water (El Niño) years, some females are found as far north as Washington and Oregon, presumably following prey.

On the Farallon Islands, California sea lions haul out in many intertidal areas year round, fluctuating from several hundred to several thousand animals. California sea lions at PRNS haul out at only a few locations, but will occur on human structures such as boat ramps. The annual population averages around 300 to 500 during the fall through spring months, although on occasion, several thousand sea lions can arrive depending upon local prey resources (S. Allen, unpublished data). On ANI, California sea lions may haul out at one of eight beach areas on the perimeter of the island (see Point Blue's Application). The island's average population ranges from 4,000 to 9,500 animals (M. Lowry, unpublished data).

Pacific Harbor Seal

Pacific harbor seals are not listed as threatened or endangered under the ESA, nor are they categorized as depleted or strategic under the MMPA. The estimated population of the California stock of harbor seals is 30,968 animals (Carretta *et al.,* 2016).

The animals inhabit near-shore coastal and estuarine areas from Baja California, Mexico, to the Pribilof Islands in Alaska. Pacific harbor seals are divided into two subspecies: *P. v. stejnegeri* in the western North Pacific, near Japan, and *P. v. richardsi* in the northeast Pacific Ocean. The California stock ranges from north of Baja, California to the Oregon-California border. Other stocks recognized along the U.S. west coast include: (1) Southern Puget Sound; (2) Washington Northern Inland Waters; (3) Hood Canal; and (4) Oregon/Washington Coast.

In California, 400–600 harbor seal haul-out sites are widely distributed along the mainland and offshore islands, and include rocky shores, beaches and intertidal sandbars (Lowry *et al.,* 2008). On the Farallon Islands, approximately 40 to 120 Pacific harbor seals haul out in the intertidal areas (Point Blue unpublished data). Harbor seals at PRNS haul out at nine locations with an annual population of up to 4,000 animals (M. Lowry, unpublished data). On ANI, harbor seals may haul out at one of eight beach areas on the perimeter of the island and the island's average population ranges from 100 to 150 animals (M. Lowry, unpublished data).

Steller Sea Lion

Steller sea lions consist of two distinct population segments: The western and eastern distinct population segments (DPS) divided at 144° West longitude (Cape Suckling, Alaska). The western segment of Steller sea lions inhabit central and western Gulf of Alaska, Aleutian Islands, as well as coastal waters and breed in Asia (*e.g.,*

Japan and Russia). The eastern segment includes sea lions living in southeast Alaska, British Columbia, California, and Oregon. The eastern DPS includes animals born east of Cape Suckling, AK (144° W.) and the latest abundance estimate for the stock is 71,562 animals (Muto *et al.,* 2016). The eastern DPS of Steller sea lion is not listed as threatened or endangered under the ESA, nor is it listed as strategic under the MMPA.

Despite the wide-ranging movements of juveniles and adult males in particular, exchange between rookeries by breeding adult females and males (other than between adjoining rookeries) appears low, although males have a higher tendency to disperse than females (NMFS, 1995; Trujillo *et al.,* 2004; Hoffman *et al.,* 2006). A northward shift in the overall breeding distribution has occurred, with a contraction of the range in southern California and new rookeries established in southeastern Alaska (Pitcher *et al.,* 2007).

An estimated 50–150 Steller sea lions are located along the Farallon Islands while 400–600 may be found on ANI (Point Blue, unpublished data; Lowry, unpublished data). None are present at PRNS (NPS, unpublished data). Overall, counts of non-pups at trend sites in California and Oregon have been relatively stable or increasing slowly since the 1980s (Muto *et al.,* 2016).

Point Blue estimates that between 50 and 150 Steller sea lions live on the Farallon Islands. On SEFI, the abundance of females declined an average of 3.6 percent per year from 1974 to 1997 (Sydeman and Allen, 1999).

NMFS' Southwest Fisheries Science Center estimates between 400 and 600 live on ANI (Point Blue unpublished data, 2008; Southwest Fisheries Science Center unpublished data, 2008). At ANI, a steady decline in ground counts started around 1970, and there was an 85 percent reduction in the breeding population by 1987 (LeBoeuf *et al.,* 1991). Pup counts at ANI declined 5 percent annually through the 1990s and stabilized between 2001 and 2005 (M. Lowry, SWFSC unpublished data). Pups have not been born at PRNS since the 1970s and Steller sea lions are seen in very low numbers there currently (S. Allen, unpublished data).

SEFI is one of two breeding colonies at the southern end of the Steller sea lion's range. On the Farallon and Año Nuevo Islands, Steller sea lion breeding colonies are located in closed areas where researchers never visited, eliminating any risk of disturbing breeding animals.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The ''Estimated Take by Incidental Harassment'' section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis and Determination'' section will consider the content of this section, the ''Estimated Take by Incidental Harassment'' section, and the ''Proposed Mitigation'' section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

Visual and acoustic stimuli generated by the appearance of researchers and motorboat operations may have the potential to cause Level B harassment of pinnipeds hauled out on SEFI, ANI, or PRNS. This section includes a summary and discussion of the ways that the types of stressors associated with the specified activity (*e.g.,* personnel presence and motorboats) have been observed to impact marine mammals. This discussion may also include reactions that we consider to rise to the level of a take and those that we do not consider to rise to the level of a take. This section is intended as a background of potential effects and does not consider either the specific manner in which this activity will be carried out or the mitigation that will be implemented, and how either of those will shape the anticipated impacts from this specific activity.

The appearance of researchers may have the potential to cause Level B harassment of any pinnipeds hauled out at survey sites. Disturbance may result in reactions ranging from an animal simply becoming alert to the presence of researchers (*e.g.,* turning the head, assuming a more upright posture) to flushing from the haul-out site into the water. NMFS does not consider the lesser reactions to constitute behavioral harassment, or Level B harassment take, but rather assumes that pinnipeds that flee some distance or change the speed or direction of their movement in response to the presence of researchers are behaviorally harassed, and thus subject to Level B taking. Animals that respond to the presence of researchers by becoming alert, but do not move or change the nature of locomotion as described, are not considered to have been subject to behavioral harassment.

Reactions to human presence, if any, depend on species, state of maturity, experience, current activity, reproductive state, time of day, and many other factors (Richardson *et al.,* 1995; Southall *et al.,* 2007; Weilgart 2007). These behavioral reactions from marine mammals are often shown as: Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior; avoidance of areas; and/or flight responses (*e.g.,* pinnipeds flushing into the water from haul-outs or rookeries). If a marine mammal does react briefly to human presence by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if visual stimuli from human presence displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.,* Lusseau and Bejder 2007; Weilgart, 2007). Numerous studies have shown that human activity can flush harbor seals off haul-out sites (Allen *et al.,* 1985; Calambokidis *et al.,* 1991; Suryan and Harvey, 1999). The Hawaiian monk seal (*Neomonachus schauinslandi*) has been shown to avoid beaches that have been disturbed often by humans (Kenyon 1972). In one case, human disturbance appeared to cause Steller sea lions to desert a breeding area at Northeast Point on St. Paul Island, Alaska (Kenyon 1962).

In cases where vessels actively approached marine mammals (*e.g.,* whale watching or dolphin watching boats), scientists have documented that animals exhibit altered behavior such as increased swimming speed, erratic movement, and active avoidance behavior (Acevedo, 1991; Trites and Bain, 2000; Williams *et al.,* 2002; Constantine *et al.,* 2003), reduced blow interval, disruption of normal social behaviors (Lusseau 2003; 2006), and the shift of behavioral activities which may increase energetic costs (Constantine *et al.,* 2003).

In 1997, Henry and Hammil (2001) conducted a study to measure the impacts of small boats (*i.e.,* kayaks, canoes, motorboats and sailboats) on harbor seal haul-out behavior in Metis Bay, Quebec, Canada. During that study, the authors noted that the most frequent disturbances (n=73) were caused by lower speed, lingering kayaks, and

canoes (33.3 percent) as opposed to motorboats (27.8 percent) conducting high speed passes. The seal's flight reactions could be linked to a surprise factor by kayaks and canoes, which approach slowly, quietly, and low on the water making them look like predators. However, the authors note that once the animals were disturbed, there did not appear to be any significant lingering effect on the recovery of numbers to their pre-disturbance levels. In conclusion, the study showed that boat traffic at current levels had only a temporary effect on the haul-out behavior of harbor seals in the Metis Bay area.

In 2004, Acevedo-Gutierrez and Johnson (2007) evaluated the efficacy of buffer zones for watercraft around harbor seal haul-out sites on Yellow Island, Washington. The authors estimated the minimum distance between the vessels and the haul-out sites; categorized the vessel types; and evaluated seal responses to the disturbances. During the course of the seven-weekend study, the authors recorded 14 human-related disturbances that were associated with stopped powerboats and kayaks. During these events, hauled out seals became noticeably active and moved into the water. The flushing occurred when stopped kayaks and powerboats were at distances as far as 453 and 1,217 ft (138 and 371 m) respectively. The authors note that the seals were unaffected by passing powerboats, even those approaching as close as 128 ft (39 m), possibly indicating that the animals had become tolerant of the brief presence of the vessels and ignored them. The authors reported that on average, the seals quickly recovered from the disturbances and returned to the haul-out site in less than or equal to 60 minutes. Seal numbers did not return to pre-disturbance levels within 180 minutes of the disturbance less than one quarter of the time observed. The study concluded that the return of seal numbers to pre-disturbance levels and the relatively regular seasonal cycle in abundance throughout the area counter the idea that disturbances from powerboats may result in site abandonment (Johnson and Acevedo-Gutierrez, 2007). As a general statement from the available information, pinnipeds exposed to intense (approximately 110 to 120 decibels re: 20 µPa) non-pulsed sounds often leave haul-out areas and seek refuge temporarily (minutes to a few hours) in the water (Southall *et al.,* 2007).

The potential for striking marine mammals is a concern with vessel traffic. Typically, the reasons for vessel strikes are fast transit speeds, lack of maneuverability, or not seeing the animal because the boat is so large. Point Blue's researchers will access areas at slow transit speeds in small boats that are easily maneuverable, minimizing any chance of an accidental strike.

There are other ways in which disturbance, as described previously, could result in more than Level B harassment of marine mammals. They are most likely to be consequences of stampeding, a potentially dangerous occurrence in which large numbers of animals succumb to mass panic and rush away from a stimulus. These situations are: (1) Falling when entering the water at high-relief locations; (2) extended separation of mothers and pups; and (3) crushing of pups by larger animals during a stampede. However, NMFS does not expect any of these scenarios to occur at SEFI, ANI, or PRNS. There is the risk of injury if animals stampede towards shorelines with precipitous relief (*e.g.,* cliffs). Researchers will take precautions, such as moving slowly and staying close to the ground, to ensure that flushes do not result in a stampede of pinnipeds heading to the sea. Point Blue reports that stampedes are extremely rare at their survey locations. Furthermore, no research activities would occur at or near pinniped rookeries. Breeding animals are concentrated in areas where researchers would not visit so NMFS does not expect mother and pup separation or crushing of pups during flushing. Furthermore, if pups should be present at Point Blue, researchers will avoid visiting that particular site.

Given the nature of the proposed activities (*i.e.,* animal observations from a distance and limited motorboat operations) in conjunction with proposed mitigation measures, NMFS is confident that any anticipated effects would be in the form of behavioral disturbance only. NMFS considers the risk of injury, serious injury, or mortality to marine mammals to be very low.

There are no habitat modifications associated with the proposed activity other than the presence of existing blinds by researchers to monitor animals. These blinds disturb only a few square feet of habitat. The presence of the blinds will likely result in a net decrease in disturbance since the researchers will only be visible briefly as they enter and exit the blind. Thus, NMFS does not expect that the proposed activity would have any effects on marine mammal habitat and NMFS expects that there will be no long- or short-term physical impacts to pinniped habitat on SEFI, ANI, or PRNS.

Estimated Take

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

Harassment is the only form of take expected to result from these activities. Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to researchers and motorboat operations. Based on the nature of the activity, Level A harassment is neither anticipated nor proposed to be authorized. Below we describe how the take is estimated.

NMFS bases these new take estimates on historical data from previous monitoring reports and anecdotal data for the same activities conducted in the same research areas. In brief, for four species (*i.e.,* California sea lions, harbor seals, northern elephant seals, and Steller sea lions), NMFS created a statistical model to derive an estimate of the average annual increase of reported take based on a best fit regression analysis (*i.e.,* linear or polynomial regression) of reported take from 2007 to 2016. Note that Point Blue has never exceeded authorized take levels under any previously issued IHA. Final data from the 2016–2017 season has not been submitted. The predicted annual increase in take for each species was added to the baseline reported take for the 2015–2016 seasons to project the estimated take for the proposed 2017–2018 IHA as is shown in Table 2.

TABLE 2—PAST REPORTED TAKE OBSERVATIONS AND ESTIMATED TAKE FOR PROPOSED 2017–2018 POINT BLUE CONSERVATION SCIENCE ACTIVITIES

Species	Reported take observations from past seasons [1]						Annual projected increase	Projected take 2017–2018 IHA
	IHA 1 (2007–2008)	IHA 2 (2008–2009)	IHA 3 (2011–2012)	IHA 4 (2012–2013)	IHA 5 (2014–2015)	IHA 6 (2015–2016)		
California Sea Lions	744	747	3,610	2,254	4,646	[2] 36,397	11,223	[3] 40,138 (47,620)
Northern Elephant Seals	44	44	67	30	97	169	34	203
Harbor Seals	39	75	109	141	259	292	107	399
Steller Sea Lions (E–DPS)	5	4	4	12	6	31	5	36

[1] Data for 2009–2010 and 2010–2011 not available.
[2] Large increase in California sea lions likely due to El Niño event.
[3] NMFS has decreased projected California sea lion take based on preliminary 2016 observed take data.

The estimated take for California sea lions has been reduced from the figure authorized under the existing 2016–2017 IHA (55,583). NMFS noted that large numbers of California sea lions recorded in 2015–2016 were likely due to an El Niño event, which ended in May/June of 2016. The El Niño Southern Oscillation (ENSO) is a single climate phenomenon that periodically fluctuates between 3 phases: Neutral, La Niña or El Niño. La Niña and El Niño are opposite phases that require certain changes to take place in both the ocean and the atmosphere, before an event is declared. ENSO is currently in a neutral state, meaning that sea lion numbers may not approach the projected take for 2017–2018 shown in Table 2. Recent data suggests that there are increasing chances another El Niño could develop in the fall of 2017, although it is impossible to predict the length or severity of such an event (NOAA 2017). Therefore, sea lion numbers could occur at levels similar to what was observed in the 2015–2016 season under El Niño conditions.

Point Blue has provided preliminary data for recorded California sea lion takes at SEFI from calendar year 2016 (January–December), which shows 33,904 California sea lion takes at SEFI. Point Blue has not yet tabulated the data for ANI and PRNS. However, Point Blue estimates that approximately 1000 animals will be taken at ANI and few, if any, will be taken at PRNS based on preliminary analysis of 2016 data. Therefore, the result for calendar year 2016 is approximately 34,904 sea lion takes (33,904 from SEFI and 1,000 from ANI and PRNS). Note that a portion of the 2016 calendar year featured El Niño conditions (January–May/June), which are predicted to return in the fall of 2017. Therefore, the 2016 calendar year data can serve as a baseline for proposed 2017–2018 IHA. NMFS will conservatively add 15 percent to the estimated 2016 yearly total to arrive at a proposed authorized take of 40,139 California sea lions for the 2017–2018 IHA.

Proposed Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance. NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully balance two primary factors: (1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat, which considers the nature of the potential adverse impact being mitigated (likelihood, scope, range), as well as the likelihood that the measure will be effective if implemented; and the likelihood of effective implementation, and; (2) the practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Point Blue has based the mitigation measures, which they will employ during the proposed research, on the implementation of protocols used during previous Point Blue research activities under previous authorizations for these activities. Note that Point Blue and NMFS have refined mitigation requirements over the years in an effort to reduce behavioral disturbance impacts to marine mammals.

To reduce the potential for disturbance from acoustic and visual stimuli associated with the activities Point Blue has proposed to implement the following mitigation measures for marine mammals:

(1) Slow approach to beaches for boat landings to avoid stampede and provide animals opportunity to enter water.

(2) Select a pathway of approach to research sites that minimizes the number of marine mammals harassed.

(3) Avoid visits to sites used by pinnipeds for pupping.

(4) Monitor for offshore predators and do not approach hauled out pinnipeds if great white sharks (*Carcharodon carcharias*) or killer whales (*Orcinus orca*) are present. If Point Blue and/or its designees see pinniped predators in the area, they must not disturb the pinnipeds until the area is free of predators.

(5) Keep voices hushed and bodies low to the ground in the visual presence of pinnipeds.

(6) Conduct seabird observations at North Landing on SEFI in an observation blind, shielded from the view of hauled out pinnipeds.

(7) Crawl slowly to access seabird nest boxes on ANI if pinnipeds are within view.

(8) Coordinate research visits to intertidal areas of SEFI (to reduce potential take) and coordinate research goals for ANI to minimize the number of trips to the island.

(10) Coordinate monitoring schedules on ANI, so that areas near any pinnipeds would be accessed only once per visit.

(11) Operate motorboats slowly with caution during approaches to landing sites in order to avoid vessel strikes.

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

Proposed Monitoring and Reporting

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

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

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

Point Blue will contribute to the knowledge of pinnipeds in California by noting observations of: (1) Unusual behaviors, numbers, or distributions of pinnipeds, such that any potential follow-up research can be conducted by the appropriate personnel; (2) tag-bearing pinnipeds or carcasses, allowing transmittal of the information to appropriate agencies and personnel; and (3) rare or unusual species of marine mammals for agency follow-up.

Required monitoring protocols for Point Blue will include the following:

(1) Record of date, time, and location (or closest point of ingress) of each visit to the research site;

(2) Composition of the marine mammals sighted, such as species, gender and life history stage (*e.g.,* adult, sub-adult, pup);

(3) Information on the numbers (by species) of marine mammals observed during the activities;

(4) Estimated number of marine mammals (by species) that may have been harassed during the activities;

(5) Behavioral responses or modifications of behaviors that may be attributed to the specific activities and a description of the specific activities occurring during that time (*e.g.,* pedestrian approach, vessel approach); and

(6) Information on the weather, including the tidal state and horizontal visibility.

For consistency, any reactions by pinnipeds to researchers will be recorded according to a three-point scale shown in Table 3. Note that only observations of disturbance Levels 2 and 3 should be recorded as takes.

TABLE 3—LEVELS OF PINNIPED BEHAVIORAL DISTURBANCE

Level	Type of response	Definition
1	Alert	Seal head orientation or brief movement in response to disturbance, which may include turning head towards the disturbance, craning head and neck while holding the body rigid in a u-shaped position, changing from a lying to a sitting position, or brief movement of less than twice the animal's body length.
2*	Movement	Movements in response to the source of disturbance, ranging from short withdrawals at least twice the animal's body length to longer retreats over the beach, or if already moving a change of direction of greater than 90 degrees.
3*	Flush	All retreats (flushes) to the water.

*Only observations of disturbance Levels 2 and 3 are recorded as takes.

This information will be incorporated into a monitoring report for NMFS. The monitoring report will cover the period from January 1, 2017 through December 31, 2017. NMFS has requested that Point Blue submit annual monitoring report data on a calendar year schedule, regardless of the current IHA's initiation or expiration dates. This will ensure that data from all consecutive months will be collected and, therefore, can be analyzed to estimate authorized take for future IHA's regardless of the existing IHA's issuance date. Point Blue will submit a draft monitoring report to NMFS Office of Protected Resources by April 1, 2018. The draft report will include monitoring data collected between January 1, 2017 and December 31, 2017. A final report will be prepared and submitted within 30 days following resolution of any comments on the draft report from NMFS. If no comments are received from NMFS, the draft final report will be considered to be the final report. This report must contain the informational elements described above, at minimum.

Point Blue must also report observations of unusual pinniped behaviors, numbers, or distributions and tag-bearing carcasses to NMFS West Coast Region office.

If at any time the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as an injury (Level A harassment), serious injury, or mortality, Point Blue will immediately cease the specified activities and report the incident to the Office of Protected Resources, NMFS, and the West Coast

Regional Stranding Coordinator, NMFS. The report must include the following information:

(1) Time and date of the incident;

(2) Description of the incident;

(3) Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);

(4) Description of all marine mammal observations in the 24 hours preceding the incident;

(5) Species identification or description of the animal(s) involved;

(6) Fate of the animal(s); and

(7) Photographs or video footage of the animal(s).

Activities will not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with Point Blue to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Pt. Blue may not resume the activities until notified by NMFS.

In the event that an injured or dead marine mammal is discovered and it is determined that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition), Point Blue will immediately report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS. The report must include the same information identified in the paragraph above IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with Point Blue to determine whether additional mitigation measures or modifications to the activities are appropriate.

In the event that an injured or dead marine mammal is discovered and it is determined that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Point Blue will report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS, within 24 hours of the discovery. Point Blue will provide photographs or video footage or other documentation of the stranded animal sighting to NMFS. Activities may continue while NMFS reviews the circumstances of the incident.

Negligible Impact Analysis and Determination

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

To avoid repetition, the discussion of our analyses applies generally to the four species for which take is authorized, given that the anticipated effects of these surveys on marine mammals are expected to be relatively similar in nature. Where there are species-specific factors that have been considered, they are identified below.

For reasons stated previously in this document and based on the following factors, NMFS does not expect Point Blue's specified activities to cause long-term behavioral disturbance that would negatively impact an individual animal's fitness, or result in injury, serious injury, or mortality. Although Point Blue's survey activities may disturb marine mammals, NMFS expects those impacts to occur to localized groups of animals at or near survey sites. Behavioral disturbance would be limited to short-term startle responses and localized behavioral changes due to the short duration (ranging from <15 minutes for visits at most locations up to 2–5 hours from April–August at SEFI) of the research activities. At some locations, where resupply activities occur, visits will occur once every two weeks. Minor and brief responses, such as short-duration startle reactions or flushing, are not likely to constitute disruption of behavioral patterns, such as migration, nursing, breeding, feeding, or sheltering. These short duration disturbances—in many cases animals will return in 30 minutes or less—will generally allow marine mammals to reoccupy haul-outs relatively quickly; therefore, these disturbances would not be anticipated to result in long-term disruption of important behaviors. No surveys will occur at or near rookeries as researchers will have limited access to SEFI, ANI, and PRNS during the pupping season and will not approach sites should pups be observed. Furthermore, breeding animals tend to be concentrated in areas that researchers are not scheduled to visit. Therefore, NMFS does not expect mother and pup separation or crushing of pups during stampedes.

Level B behavioral harassment of pinnipeds may occur during the operation of small motorboats. However, exposure to boats and associated engine noise would be brief and would not occur on a frequent basis. Results from studies demonstrate that pinnipeds generally return to their sites and do not permanently abandon haul-out sites after exposure to motorboats. The chance of a vessel strike is very low due to small boat size and slow transit speeds. Researchers will delay ingress into the landing areas until after the pinnipeds enter the water and will cautiously operate vessels at slow speeds.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality is anticipated or authorized;
- Limited behavioral disturbance in the form of short-duration startle reactions or flushing Mitigation requirements employed by researchers (*e.g.* move slowly, use hushed voices) should further decrease disturbance levels;
- No activity near rookeries and avoidance of pups; and
- Limited impact from boats due to their small size, maneuverability and the requirement to delay ingress until after hauled out pinnipeds have entered the water.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds

that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

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

As mentioned previously, NMFS estimates that four marine mammal species could potentially be affected by Level B harassment under the proposed authorization. For each species, these numbers are small relative to the population size. These incidental harassment numbers represent approximately 13.5 percent of the U.S. stock of California sea lion, 1.28 percent of the California stock of Pacific harbor seal, 0.11 percent of the California breeding stock of northern elephant seal, and 0.05 percent of the eastern distinct population segment of Steller sea lion. Note that the number of individual marine mammals taken is assumed to be less than the take estimate (number of exposures) since we assume that the same animals may be behaviorally harassed over multiple days.

TABLE 4—POPULATION ABUNDANCE ESTIMATES, TOTAL PROPOSED LEVEL B TAKE, AND PERCENTAGE OF POPULATION THAT MAY BE TAKEN

Species	Stock	Stock abundance	Total proposed Level B take	Percentage of stock or population
California sea lion	U.S.	296,750	40,138	13.5
Steller sea lion	Eastern U.S.	71,562	36	0.05
Harbor seal	California	30,968	399	1.28
Northern elephant seal	California breeding stock	179,000	203	0.11

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

Unmitigable Adverse Impact Analysis and Determination

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

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally with our ESA Interagency Cooperation Division whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is proposed for authorization or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

National Environmental Policy Act (NEPA)

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action with respect to environmental consequences on the human environment.

Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review. This action is consistent with categories of activities identified in CE B4 of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion.

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

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to Point Blue Conservation Science for conducting research surveys at SEFI, ANI, and PRNS from June 16, 2017 through June 15, 2018 provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued).

1. This IHA is valid from June 16, 2017 through June 15, 2018.

2. This IHA is valid only for specified activities associated with seabird and marine mammal monitoring surveys located on or near Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore.

3. Species Authorized and Level of Take.

a. The incidental taking of marine mammals, by Level B harassment only is limited to the following species and associated authorized take numbers as shown below:

i. 399 harbor seal; (*Phoca vitulina richardii*);

ii. 40,138 California sea lions (*Zalophus californianus*);

iii. 36 Steller sea lions (*Eumetopias jubatus*); and

iv. 203 northern elephant seals (*Mirounga angustirostris*).

b. The taking by injury (Level A harassment), serious injury, or death of any of the species listed in condition 3(a) of the IHA or any taking of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA.

4. General Conditions.

a. A copy of this Authorization must be in the possession of Point Blue, its designees, and field crew personnel (including research collaborators from

Point Reyes National Seashore and Oikonos—Ecosystem Knowledge) operating under the authority of this IHA.

5. Mitigation Measures.

The holder of this IHA is required to implement the following mitigation measures:

a. Slow approach to beaches for boat landings to avoid stampede and provide animals opportunity to enter water.

b. Select a pathway of approach to research sites that minimizes the number of marine mammals harassed.

c. Avoid visits to sites when pups are present.

d. Monitor for offshore predators and do not approach hauled out pinnipeds if great white sharks (*Carcharodon carcharias*) or killer whales (*Orcinus orca*) are observed. If Point Blue and/or its designees see pinniped predators in the area, they must not disturb the pinnipeds until the area is free of predators.

e. Keep voices hushed and bodies low to the ground in the visual presence of pinnipeds.

f. Conduct seabird observations at North Landing on Southeast Farallon Island in an observation blind, shielded from the view of hauled out pinnipeds.

g. Crawl slowly to access seabird nest boxes on Año Nuevo Island if pinnipeds are within view.

h. Coordinate research visits to intertidal areas of Southeast Farallon Island (to reduce potential take) and coordinate research goals for Año Nuevo Island to minimize the number of trips to the island.

i. Coordinate monitoring schedules on Año Nuevo Island, so that areas near pinnipeds would be accessed only once per visit.

j. Require beach landings on Año Nuevo Island only occur after any pinnipeds that might be present on the landing beach have entered the water.

k. Operate motorboats slowly with caution during approaches to landing sites in order to avoid vessel strikes.

l. Have the lead biologist serve as an observer to record incidental take.

6. Monitoring.

The holder of this Authorization is required to:

a. Record the date, time, and location (or closest point of ingress) of each visit to the research site.

b. Collect the following information for each visit:

i. Composition of the marine mammals sighted, such as species, gender and life history stage (*e.g.,* adult, sub-adult, pup);

ii. information on the numbers (by species) of marine mammals observed during the activities;

iii. estimated number of marine mammals (by species) that may have been harassed during the activities;

iv. behavioral responses or modifications of behaviors that may be attributed to the specific activities and a description of the specific activities occurring during that time (*e.g.,* pedestrian approach, vessel approach); and

v. information on the weather, including the tidal state and horizontal visibility.

c. Observers will record marine mammal disturbances according to a three-point scale of intensity including:

(1) Seal head orientation or brief movement in response to disturbance, which may include turning head towards the disturbance, craning head and neck while holding the body rigid in au-shaped position, changing from a lying to a sitting position, or brief movement of less than twice the animal's body length, ''alert'';

(2) movements in response to source of disturbance, ranging from short withdrawals at least twice the animal's body length to longer retreats over the beach, or if already moving a change of direction of greater than 90 degrees, ''movement''; and

(3) all retreats (flushes) to the water, ''flush''.

(4) Observations of disturbance Levels 2 and 3 will be recorded as takes.

d. If applicable, note observations of marked or tag-bearing pinnipeds or carcasses, as well as any rare or unusual species of marine mammal.

e. If applicable, note the presence of any offshore predators (date, time, number, and species).

7. Reporting.

The holder of this Authorization is required to:

a. Report observations of unusual behaviors of pinnipeds to the NMFS West Coast Region Office so that the appropriate personnel NMFS personnel may conduct any potential follow-up observations.

b. Submit a draft monitoring report to NMFS Office of Protected Resources by April 1, 2018 covering the time period of January 1, 2017 through December 31, 2017. A final report will be prepared and submitted within 30 days following resolution of any comments on the draft report from NMFS. If no comments are received from NMFS, the draft final report will be considered to be the final report

c. Reporting injured or dead marine mammals:

i. In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as an injury (Level A harassment), serious injury, or mortality, Point Blue will immediately cease the specified activities and report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS. The report must include the following information:

1. Time and date of the incident;

2. Description of the incident;

3. Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);

4. Description of all marine mammal observations and active sound source use in the 24 hours preceding the incident;

5. Species identification or description of the animal(s) involved;

6. Fate of the animal(s); and

7. Photographs or video footage of the animal(s).

Activities will not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with Point Blue to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Point Blue may not resume their activities until notified by NMFS.

ii. In the event that Point Blue discovers an injured or dead marine mammal, and the lead observer determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a modest state of decomposition), Point Blue will immediately report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS. The report must include the same information identified in 6(c)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with Point Blue to determine whether additional mitigation measures or modifications to the activities are appropriate.

iii. In the event that Point Blue discovers an injured or dead marine mammal, and the lead observer determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Point Blue will report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS, within 24 hours of the discovery. Point Blue will provide photographs or video footage or other documentation of the stranded animal sighting to NMFS.

8. This Authorization may be modified, suspended or withdrawn if

the holder fails to abide by the conditions prescribed herein, or if NMFS determines the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.

Request for Public Comments

We request comment on our analyses, the draft authorization, and any other aspect of this Notice of Proposed IHA for the proposed taking of marine mammals incidental to seabird and pinniped research activities in central California. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

Dated: May 11, 2017.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–09864 Filed 5–15–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF415

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that these Exempted Fishing Permit applications contain all of the required information and warrant further consideration. These Exempted Fishing Permits would authorize three commercial fishing vessels to conduct independent projects testing the economic viability of using hook gear to selectively target healthy pollock and haddock stocks in the Western Gulf of Maine and Cashes Ledge Closure Areas (excluding Cashes Ledge Habitat Closed Area), and to temporarily retain undersized catch for measurement and data collection.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed Exempted Fishing Permits.

DATES: Comments must be received on or before May 31, 2017.

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

- *Email: NMFS.GAR.EFP@noaa.gov.* Include in the subject line ''Comments on Hook Gear Access to WGOM and Cashes Ledge Closure Areas EFP.''
- *Mail:* John K. Bullard, Regional Administrator, NMFS, NE Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on Hook Gear in WGOM and Cashes Ledge EFP.''

FOR FURTHER INFORMATION CONTACT: Claire Fitz-Gerald, Fishery Management Specialist, 978–281–9255, *claire.fitz-gerald@noaa.gov.*

SUPPLEMENTARY INFORMATION: Three commercial fishermen submitted separate and complete applications requesting an Exempted Fishing Permit (EFP) to conduct commercial fishing activities that the regulations would otherwise restrict. In total, these EFPs would authorize three commercial fishing vessels to fish a combined total of 200 trips in the Western Gulf of Maine (WGOM) and Cashes Ledge Closure Areas (excluding the Cashes Ledge Habitat Closed Area) with hook gear and to temporarily retain undersized catch for measurement and data collection.

This EFP would authorize the applicants to use hook gear to selectively target pollock and haddock while maintaining minimal bycatch. In addition, the applicants propose to leverage these exemptions to explore and develop premium markets to increase the value of the catch. This study would be conducted in the WGOM and Cashes Ledge Closure Areas (excluding habitat closed areas); the applicants have requested access to these areas based on reports that there is a high concentration of the target species located in these areas. The exemptions are necessary to conduct this study because vessels on commercial groundfish trips are prohibited from fishing for groundfish in these closed areas and from retaining undersized groundfish. EFP trips would occur year-round (excluding seasonal closures), although the majority of trips would occur in the summer and fall months. Participating vessels would take a combined total of 200 trips to closed areas. Trips would be roughly 24 hours or less in length. Estimated average catch would be between 1,000 and 2,000 lb (453.5 to 907.2 kg) of pollock and haddock, combined, per trip. Bycatch is expected to be minimal; applicants estimate 50 to 100 lb (22.7 to 45.4 kg) of cod and 10 to 25 lb (4.5 to 11.3 kg) of redfish and cusk per trip. Participating vessels would use a combination of automated jigging machines and handlines to target pollock and haddock; one vessel would use two jigging machines and three rods; another would use four rods only; the final vessel would use three jigging machines only.

Because these vessels would be fishing in closed areas, the agency would monitor their catch closely to ensure minimal interactions with Gulf of Maine cod. Cod catch would be restricted to 5 percent of the total expected catch, to be applied cumulatively across each project. In the event that an applicant exceeds the vessel's cap, that EFP authorization would end. One-hundred-percent monitoring would be required for this EFP. A vessel may carry a Northeast Fishery Observer Program (NEFOP) or At-Sea Monitoring (ASM) observer assigned to the trip through the Pre-Trip Notification System (PTNS). In the event of a waiver, the applicant must secure data collection services from a third party ASM provider, at the vessel's expense. All observers would record lengths of kept and discarded fish, gear characteristics, and fishing location. Undersized fish would be sampled and returned to the water as quickly as possible. All legal-sized Northeast multispecies would be landed, and all catch would be attributed to the vessel's sector annual catch entitlement in accordance with standard catch accounting procedures. All proceeds from the sale of catch would be retained by the vessel. The applicant would maintain a record of all ex-vessel price information to inform the questions about the ability this gear to establish a premium market for the target species.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: May 11, 2017.

Karen H. Abrams,

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

[FR Doc. 2017–09879 Filed 5–15–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF350

Marine Mammals; File No. 21045

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

ACTION: Notice; receipt of applications.

SUMMARY: Notice is hereby given that the Matson Laboratory [Carolyn Nistler, Responsible Party], 135 Wooden Shoe Lane, Manhattan, MT 59741, has applied in due form for a permit to import, export, and receive marine mammal parts for scientific research.

DATES: Written, telefaxed, or email comments must be received on or before June 15, 2017.

ADDRESSES: The applications and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 21045 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on either of these applications should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov*. Please include the File No. 21045 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Shasta McClenahan or Jennifer Skidmore, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The applicant proposes to receive, import, and export teeth from pinnipeds to perform age analysis. Teeth may be received 500 individual harbor seals (*Phoca vitulina*), 1,000 individuals of each species of bearded (*Erignathus barbatus*) or spotted (*P. largha*) seals, 2,000 ringed seals (*P. hispida*) and up to 500 additional pinnipeds of any other species, excluding walrus, annually. The requested duration of the permit is five years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activities proposed are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the applications to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: May 11, 2017.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–09849 Filed 5–15–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF394

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Thursday, June 1, 2017 at 9:30 a.m.

ADDRESSES: *Meeting address:* The meeting will be held at the Courtyard by Marriott Boston Logan Airport, 225 William McClennan Highway, Boston, MA 02128; phone: (617) 569–5250.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Scallop Committee will review the general workload for 2017 based on Council priorities and a draft action plan for Scallop Framework 29 (FW29) and potentially identify recommendations for prioritizing work items in upcoming actions. They will also review progress on potential management measures that may be included in FW29, including: (1) Flatfish accountability measures; (2) Modifications to the management of the Northern Gulf of Maine area; (3) Measures to modify scallop access areas consistent with potential changes to habitat and groundfish mortality closed areas. The committee will also discuss the establishment of a control date that may limit the ability of Limited Access General Category (LAGC) permit holders to move between permit categories. They will provide research recommendations for the 2018/19 Scallop Research Set-Aside (RSA) federal funding announcement. Other business may be discussed as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date. Consistent with 16

U.S.C. 1852, a copy of the recording is available upon request.

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

Dated: May 10, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–09832 Filed 5–15–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF367

Marine Mammals; File No. 20951

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Ann Zoidis, Ph.D., Cetos Research Organization, 11 Des Isle Avenue, Bar Harbor, ME 04609, has applied in due form for a permit to conduct research on marine mammals.

DATES: Written, telefaxed, or email comments must be received on or before June 15, 2017.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 20951 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Shasta McClenahan or Carrie Hubard, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The applicant requests a five-year research permit to study cetaceans in the Gulf of Maine to determine population behavior, size, distribution, seasonal variations, habitat utilization, and trophic ecology. The research would target 17 species of cetaceans including the following endangered species: Blue (*Balaenoptera musculus*), fin (*B. physalus*), North Atlantic right (*Eubalaena glacialis*), sei (*B. borealis*), and sperm (*Physeter macrocephalus*) whales. Researchers would conduct vessel and unmanned aerial surveys for counts, biological sampling, observations, photography, and photogrammetry of cetaceans. Standard research activities for target large whale species include annual takes of 400 each fin and humpback (*Megaptera novaeangliae*) whales, 100 each minke (*B. acutorostrata*) and sei whales, and 50 each blue, North Atlantic right, and sperm whales. Adult and juvenile whales may be biopsy sampled annually: Up to 100 each fin and humpback whales, and 30 each blue, minke, and sei whales. Up to 10 humpback and fin whale calves, 6 months or older, may be biopsy sampled each year. Other Level B harassment takes may occur for nine smaller, non-listed cetacean species; please see the take table of the application.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: May 11, 2017.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–09854 Filed 5–15–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No.: PTO–T–2017–0012]

Improving the Accuracy of the Trademark Register: Request for Comments on Possible Streamlined Version of Cancellation Proceedings on Grounds of Abandonment and Nonuse

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Request for comments.

SUMMARY: The United States Patent and Trademark Office (''USPTO'') seeks comments from stakeholders, mark owners, and all those interested in the maintenance of an accurate U.S. Trademark Register, on the establishment of a streamlined version of the existing *inter partes* abandonment and nonuse grounds for cancellation before the USPTO's Trademark Trial and Appeal Board (''TTAB'').

DATES: To ensure consideration, comments should be submitted no later than August 14, 2017.

ADDRESSES: Comments should be sent by electronic mail message over the Internet addressed to: *TTABFRNotices@uspto.gov* or to the following address: United States Patent and Trademark Office, Trademark Trial and Appeal Board, P.O. Box 1451, Alexandria, VA 22313–1451, ATTN: Cynthia Lynch.

The comments will be available for public inspection via the USPTO Web site at *http://www.uspto.gov.* Because comments will be made available for public inspection, information that the submitter does not desire to make public, such as an address or phone number, should not be included in the comments.

FOR FURTHER INFORMATION CONTACT: Cynthia Lynch, Trademark Trial and Appeal Board, by email at *TTABFRNotices@uspto.gov* or by telephone at (571) 272–8742.

SUPPLEMENTARY INFORMATION:

Background

As part of the USPTO's ongoing effort to improve the accuracy of the U.S. Trademark Register, the USPTO has been consulting with stakeholders on

ways to eliminate from the Register registrations for marks that are not in use. Stakeholders asked the USPTO to consider creating additional tools to facilitate challenges by interested parties to registrations for unused marks. The USPTO considered cost and efficiency, the potential for abuse of any such tools, U.S. treaty obligations, and the existing legal framework for abandonment, nonuse, and registration-maintenance requirements.

The USPTO has assessed many options, including making statutory and regulatory changes, as part of this ongoing effort and has decided to prioritize proposals for modifying existing regulations at this time. Accordingly, this Request for Comments addresses an option for a streamlined version of the existing *inter partes* abandonment and nonuse grounds for cancellation before the TTAB (''Streamlined Proceedings'').[1]

Streamlined Proceedings

Under existing law, cancellation of a registration for nonuse requires a showing of either: (1) Abandonment as to some or all of the goods/services (nonuse plus intention not to resume use); or (2) no use for some or all of the goods/services in a Section 1-based registration prior to the relevant operative date (*i.e.,* filing date, date of amendment to allege use, or date of statement of use). The USPTO is considering offering a streamlined TTAB cancellation proceeding limited to the assertion of one or both of these claims. No other possible grounds for cancellation would be included in the Streamlined Proceedings.

The introduction of this flexibility in the relevant rules would include specific procedures and timing to facilitate speed and efficiency, including that the evidence must be submitted with the pleadings, very limited discovery only when granted by the TTAB for good cause shown, an abbreviated schedule, no oral hearing, and issuance of the TTAB's decision within an expedited timeframe. These proceedings would provide a significantly streamlined process because pleading, presentation of evidence, and limited briefing would occur simultaneously. The fee for a petition to cancel in a Streamlined Proceeding would be lower than for a petition in a full proceeding—with possible fees totaling $300 per class when filing through the Electronic System for Trademark Trials and Appeals (ESTTA), or $400 per class when filing on paper.

A petition to cancel in a Streamlined Proceeding would be required to set forth facts to establish the petitioner's standing and set forth with particularity the factual basis for the ground(s) asserted as the basis for cancellation. While the Streamlined Proceedings would be limited to assertion of two possible grounds, there may be cases in which the petitioner would assert both; and in that scenario, each ground would have to be stated with particularity. Additionally, the petition would be required to be supported by the proof upon which the petitioner relies to establish both standing and the claim of abandonment and/or nonuse. As proof for the claim, for example, a petitioner might provide a declaration outlining a search for use of the mark and the results, or other evidence of abandonment or nonuse.

The respondent's answer would be required within 40 days. In addition to the requirement that the respondent admit or deny the averments in the petition and, if applicable, state the defenses of either estoppel or prior judgments, the answer would be required to also include proof of use or other evidence on which the respondent seeks to rely to counter the abandonment or nonuse grounds for the goods or services as to which the grounds have been alleged, or to support any pleaded defenses.

After reviewing the answer and proof, within 40 days the petitioner may elect to:

(1) Reply, providing any rebuttal evidence, thereby submitting the Streamlined Proceeding for decision by the TTAB (typically within 90 days);

(2) Withdraw the petition for cancellation without prejudicing the right to file another cancellation proceeding *on grounds other than the grounds raised in the Streamlined Proceeding;* or

(3) File a notice of conversion to a full cancellation proceeding, along with the appropriate fee and any proposed amendment of the petition to cancel, including adding other grounds for cancellation. Upon any such conversion to a full proceeding, the TTAB would designate a time within which an amended answer must be filed, and issue a trial order setting deadlines and dates to allow for disclosures, discovery, trial and briefing. The cancellation proceeding then would continue pursuant to the usual practices and rules for non-streamlined proceedings. Notably, the respondent would *not* have the option of converting to a full TTAB proceeding.[2] However, both parties would retain the right to judicial review of TTAB decisions in Streamlined Proceedings, under 15 U.S.C. 1071.

At the time of the answer, the respondent may, by separate motion, request limited discovery solely on the issue of standing, based on a showing of good cause. Upon the grant of such a motion, the TTAB would issue an order setting the deadline for discovery and deadlines by which the respondent may submit a motion to challenge standing and by which the petitioner may respond to such a motion, if filed. The TTAB would grant such a motion only when it appears that discovery could provide outcome determinative information with respect to standing. Such a motion would not stay or otherwise extend deadlines. Regardless of the request for discovery or any challenge to standing, the respondent must nonetheless still timely answer the petition and provide its proof, and the petitioner must provide any reply brief or conversion request.

Counterclaims would not be permitted in Streamlined Proceedings. To the extent that a respondent believes that it has the basis for a counterclaim, it would have to bring the claim in a separate proceeding. As a general rule, suspensions would be rare and would typically be available only when there is concurrent district court litigation involving the same mark(s) and issue(s).

The Streamlined Proceedings could offer a substantially quicker schedule than a full cancellation proceeding. In the case of a default judgment where the respondent does not respond to the petition, the entire proceeding could conclude within approximately 70 days. In a case where a respondent elects to respond, the entire proceeding could conclude within approximately 170 days in most cases. Extensions of time for the answer or reply would be limited to one per party.

Request for Public Comments

The USPTO is requesting written public comments on the Streamlined Proceedings, as outlined above, or other options for a streamlined version of the existing *inter partes* abandonment and nonuse grounds for cancellation before

[1] If this Streamlined Proceedings proposal is implemented, the USPTO will have a better sense of whether the proceedings are effective for their intended purpose and can then evaluate whether proposals necessitating statutory amendment also would be useful.

[2] Given that the respondent, rather than the petitioner, generally has the relevant information about use, the respondent would seem to have no legitimate need for a full proceeding. Although the USPTO considered some stakeholder suggestions that the respondent also have the conversion option, the USPTO concluded that such a mechanism would undercut the speed and efficiency for a petitioner and result in the streamlined proceedings lacking any real benefit over existing cancellation procedures.

the TTAB. The Office also invites any other input the public wishes to convey about the topics addressed in this Request for Comments.

Dated: May 10, 2017.

Michelle K. Lee,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2017–09856 Filed 5–15–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Responses to Office Action and Voluntary Amendment Forms

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on a proposed extension of an existing information collection: 0651–0050 (Responses to Office Action and Voluntary Amendment Forms).

DATES: Written comments must be submitted on or before July 17, 2017.

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

- *Email: InformationCollection@uspto.gov.* Include ''0651–0050 comment'' in the subject line of the message.
- *Mail:* Marcie Lovett, Records Management Division Director, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- *Federal Rulemaking Portal: http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Catherine Cain, Attorney Advisor, Office of the Commissioner for Trademarks, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450, by telephone at 571–272–8946, or by email at *Catherine.Cain@uspto.gov.* Additional information about this collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is required by the Trademark Act, 15 U.S.C. 1051 *et seq.,* which provides for the federal registration of trademarks, service marks, collective trademarks and services marks, collective membership marks, and certification marks. Individuals and business that use such marks, or intend to use such marks, in interstate commerce may file an application to register their marks with the United States Patent and Trademark Office (USPTO). This collection generally contains information that is not submitted with the initial trademark application but is associated with, or required for, the USPTO review of applications for registration.

In some cases, the USPTO issues Office Actions to applicants who have applied to register a mark, requesting information that was not provided with the initial submission, but is required before the issuance of a registration. Also, the USPTO may determine that a mark is not entitled to registration, pursuant to one or more provisions of the Trademark Act. In such cases, the USPTO will issue an Office Action advising the applicant of the refusal to register the mark. Applicants reply to these Office Actions by providing the required information and/or by putting forth legal arguments as to why the refusal of registration should be withdrawn.

The USPTO administers the Trademark Act through Chapter 37 of the Code of Federal Regulations. These rules allow the USPTO to request and receive information required to process applications. These rules also allow applicants to submit certain amendments to their applications.

Applicants may also supplement their applications and provide further information by filing a Voluntary Amendment Not in Response to USPTO Office Action/Letter, a Request for Reconsideration after Final Office Action, a Post-Approval/Publication/Post-Notice of Allowance (NOA) Amendment, a Petition to Amend Basis Post-Publication, or a Response to Suspension Inquiry or Letter of Suspension. In rare instances, an applicant may also submit a Substitute Trademark/Servicemark, Substitute Certification Mark, Substitute Collective Membership Mark, or Substitute Collective Trademark/Servicemark application.

II. Method of Collection

The forms in this collection are available in electronic format through the Trademark Electronic Application System (TEAS), which may be accessed on the USPTO Web site. TEAS Global Forms are available for the items where a TEAS form with dedicated data fields is not yet available. Applicants may also submit the information in paper form by mail, fax, or hand delivery.

III. Data

OMB Number: 0651–0050.

Form Numbers: PTO–1771, PTO–1822, PTO–1957, PTO–1960, and PTO–1966.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profits; not-for-profit institutions; individuals.

Estimated Number of Respondents: 472,301 responses per year.

Estimated Time per Response: The USPTO estimates that it will take the public between 10 minutes (0.16 hours) and 45 minutes (0.75 hours), depending on the complexity of the situation, to gather the necessary information, prepare the appropriate documents, and submit the information required for this collection.

Estimated Total Annual Respondent Burden Hours: 266,184 hours per year.

Estimated Total Annual Respondent Cost Burden: $109,135,440.00. The USPTO expects that the information in this collection will be prepared by attorneys at an estimated rate of $410 per hour. Therefore, the USPTO estimates that the respondent cost burden for this collection will be approximately $109,135,440.00 per year.

TABLE 1—TOTAL HOURLY BURDEN

IC #	Item	Estimated time for response (hours)	Estimated annual responses	Estimated annual burden hours	Rate ($/hr)	Estimated annual burden
		(a)	(b)	(a) × (b) = (c)	(d)	(c) × (d) = (e)
1	Response to Office Action (TEAS) ..	0.58 (35 minutes)	410,722	238,219	$410.00	$97,699,790.00
1	Response to Office Action (Paper) ..	0.67 (40 minutes)	9,847	6,597	410.00	2,704,770..00

TABLE 1—TOTAL HOURLY BURDEN—Continued

IC #	Item	Estimated time for response (hours) (a)	Estimated annual responses (b)	Estimated annual burden hours (a) × (b) = (c)	Rate ($/hr) (d)	Estimated annual burden (c) × (d) = (e)
2	Substitute Trademark/Servicemark Application, Principal Register (TEAS Global).	0.50 (30 minutes)	1	1	410.00	410.00
2	Substitute Trademark/Servicemark Application, Principal Register (Paper).	0.50 (30 minutes)	1	1	410.00	410.00
3	Substitute Certification Mark (TEAS Global).	0.50 (30 minutes)	1	1	410.00	410.00
3	Substitute Certification Mark (Paper)	0.50 (30 minutes)	1	1	410.00	410.00
4	Substitute Collective Membership Mark (TEAS Global).	0.50 (30 minutes)	1	1	410.00	410.00
4	Substitute Collective Membership Mark (Paper).	0.50 (30 minutes)	1	1	410.00	410.00
5	Substitute Collective Trademark/ Servicemark (TEAS Global).	0.50 (30 minutes)	1	1	410.00	410.00
5	Substitute Collective Trademark/ Servicemark (Paper).	0.50 (30 minutes)	1	1	410.00	410.00
6	Voluntary Amendment Not in Response to USPTO Office Action/ Letter (TEAS).	0.33 (20 minutes)	16,117	5,319	410.00	2,180,790.00
6	Voluntary Amendment Not in Response to USPTO Office Action/ Letter (Paper).	0.50 (30 minutes)	163	82	410.00	33,620.00
7	Request for Reconsideration After Final Office Action (TEAS).	0.67 (40 minutes)	17,515	11,735	410.00	4,811,350.00
7	Request for Reconsideration After Final Office Action (Paper).	0.75 (45 minutes)	44	33	410.00	13,530.00
8	Post-Approval/Publication/Post-Notice of Allowance (NOA) Amendment (TEAS).	0.42 (25 minutes)	4,541	1,907	410.00	781,870.00
8	Post-Approval/Publication/Post-Notice of Allowance (NOA) Amendment (Paper).	0.50 (30 minutes)	11	6	410.00	2,460.00
9	Petition to Amend Basis Post-Publication (TEAS Global).	0.33 (20 minutes)	800	264	410.00	108,240.00
9	Petition to Amend Basis Post-Publication (Paper).	0.42 (25 minutes)	33	14	410.00	5,740.00
10	Response to Suspension Inquiry or Letter of Suspension (TEAS).	0.16 (10 minutes)	12,499	2,000	410.00	820,000.00
10	Response to Suspension Inquiry or Letter of Suspension.	0.25 (15 minutes)	13	3	410.00	1,230.00
Total			472,300	266,184		109,135,440.00

Estimated Total Annual (Non-hour Respondent Cost Burden: $113,053.35. There are no capital start-up, maintenance, or record-keeping costs associated with this information collection. However, this collection does have annual (non-hour) costs in the form of postage costs and filing fees.

Customers incur postage costs when submitting non-electronic information to the USPTO by mail through the United States Postal Service. The USPTO expects that the majority (roughly 98%) of the paper forms are submitted to the USPTO via first-class mail. The USPTO estimates that these submissions will typically weigh approximately one ounce and that the first-class postage for these submissions is $0.49 per submission.

TABLE 2—POSTAGE COSTS

IC #	Item	Responses (a)	Postage costs ($) (b)	Total (non-hour) cost burden (a × b) = (c)
1	Response to Office Action	9,847	$0.49	$4,825.03
2	Substitute Trademark/Servicemark Application, Principal Register	1	0.49	0.49
3	Substitute Certification Mark	1	0.49	0.49
4	Substitute Collective Membership Mark	1	0.49	0.49
5	Substitute Collective Trademark/Servicemark	1	0.49	0.49

TABLE 2—POSTAGE COSTS—Continued

IC #	Item	Responses (a)	Postage costs ($) (b)	Total (non-hour) cost burden (a × b) = (c)
6	Voluntary Amendment Not in Response to USPTO Office Action/Letter	163	0.49	79.87
7	Request for Reconsideration After Final Office Action	44	0.49	21.56
8	Post-Approval/Publication/Post-Notice of Allowance (NOA) Amendment	11	0.49	5.39
9	Petition to Amend Basis Post-Publication	33	0.49	16.17
10	Response to Suspension Inquiry or Letter of Suspension	13	0.49	6.37
	Total	9,850		4,953.35

There are three filing fees associated with the collection, detailed in Table 3 below.

TABLE 3—FILING FEES

IC #	Item	Annual estimated responses	Filing Fee	Filing fee costs
2	Additional fee for application that does not meet TEAS Plus or TEAS RF filing requirements, per Class.	172	$125.00	$21,500.00
9	Petition to Amend Basis Post-Publication (TEAS Global)	800	100.00	80,000.00
9	Petition to Amend Basis Post-Publication (Paper)	33	200.00	6,600.00
Total		1,005		108,100.00

The USPTO estimates that the total (non-hour) respondent cost burden for this collection in the form of both postage costs and filing fees is $113,053.35 per year.

IV. Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

The USPTO is soliciting public comments to: (a) Evaluate 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) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Marcie Lovett,

Records Management Division Director, USPTO, Office of the Chief Information Officer.

[FR Doc. 2017–09809 Filed 5–15–17; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Science Board (DSB) will take place.

DATES: Day 1—Closed to the public Wednesday, May 17, 2017, from 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m.; Day 2—Closed to the public Thursday, May 18, 2017 from 10:00 a.m. to 12:00 p.m. and 1:00 p.m. to 3:45 p.m.

ADDRESSES: The address of the closed meeting is the Nunn-Lugar Conference, Room 3E863, 3140 Defense Pentagon, Washington, DC 20301.

FOR FURTHER INFORMATION CONTACT: Defense Science Board Designated Federal Officer (DFO) Ms. Karen D.H. Saunders, (703) 571–0079 (Voice), (703) 697–1860 (Facsimile), *karen.d.saunders.civ@mail.mil* (Email). Mailing address is Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301–3140. Web site: *http://www.acq.osd.mil/dsb/.* The most up-to-date changes to the meeting agenda can be found on the Web site.

SUPPLEMENTARY INFORMATION: Due to circumstances beyond the control of the Designated Federal Officer and the Department of Defense, the Defense Science Board was unable to provide public notification concerning its meeting on May 17 through 18, 2017, as required by 41 CFR 102–3.150(a). Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of

1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The mission of the DSB is to provide independent advice and recommendations on matters relating to the DoD's scientific and technical enterprise. The objective of the meeting is to obtain, review, and evaluate classified information related to the DSB's mission. DSB membership will meet with DoD Leadership to discuss current and future national security challenges within the DoD. This meeting will focus on updates on the new administration's directives as they relate to the 2017 summer studies on national leadership command capability and countering anti-access systems with longer range and standoff capabilities, as well as the new task forces on survivable logistics and advanced technology demonstrations.

Agenda: Day one briefings will include opening remarks from Ms. Karen Saunders, Designated Federal Officer, Dr. Craig Fields, DSB Chairman, and Dr. Eric Evans, DSB Vice Chairman; a discussion about the Office of the Secretary of Defense (OSD) under the current administration's defense priorities with the Honorable Jim Mattis, Secretary of Defense; a briefing on U.S. Strategic Command (USSTRATCOM) operations from General Hyten, Commander, USSTRATCOM; a briefing on the view and priorities of the Navy under the current administration from Vice Admiral James Foggo, Director, Navy Staff; a briefing on the operations and priorities of the Missile Defense Agency under the current administration from Vice Admiral James Syring, Director, Missile Defense Agency; a presentation on a DSB quick response structure to new defense technologies and issues from Dr. Anita Jones and Dr. Ken Gabriel, DSB members; a briefing on the future of the Air Force from General Goldfein, Chief of Staff, U.S. Air Force; remarks on the 2017 DSB Summer Study on National Leadership Command Capabilities (NLCC) from a DoD perspective by Dr. John Zangardi, Chief Information Officer, Department of Defense; and Dr. Miriam John and Mr. Robert Stein, DSB NLCC summer study co-chairs, will present the DSB 2017 Summer Study framework on NLCC. Dr. Fields will provide closing remarks at the end of the day. Day Two briefings will include a briefing on the operations and priorities of the Army under the current administration from General Mark Milley, Chief of Staff, U.S. Army; a briefing on the operations of the Defense Advanced Research Projects Agency (DARPA) from Dr. Steve Walker, Acting Director, DARPA; a briefing on the 2016 DARPA Cyber Challenge and the future of the Challenge from Mr. Mike Walker, Program Manager, DARPA Cyber Challenge; a briefing on the new Navy Strategic Plan and an update on the National Defense Authorization Act (NDAA) Section 901–A changes from Mr. Sean Stackley, Acting Secretary of the Navy; a discussion on the future of the Acquisition, Technology and Logistics (AT&L) component with Mr. James MacStravic, Performing the Duties of Under Secretary of Defense for AT&L; and Drs. Fields and Evans will provide closing remarks to provide any action items for DSB members to complete.

Meeting Accessibility: In accordance with section 10(d) of the FACA and 41 CFR 102–3.155, the DoD has determined that the DSB meeting will be closed to the public. Specifically, the Under Secretary of Defense (Acquisition, Technology, and Logistics), in consultation with the DoD Office of General Counsel, has determined in writing that the meeting will be closed to the public because matters covered by 5 U.S.C. 552b(c)(1) will be considered. The determination is based on the consideration that it is expected that discussions throughout will involve classified matters of national security concern. Such classified material is so intertwined with the unclassified material that it cannot reasonably be segregated into separate discussions without defeating the effectiveness and meaning of the overall meetings. To permit the meeting to be open to the public would preclude discussion of such matters and would greatly diminish the ultimate utility of the DSB's findings and recommendations to the Secretary of Defense and to the Under Secretary of Defense for Acquisition, Technology, and Logistics.

Written Statements: In accordance with section 10(a)(3) of the FACA and 41 CFR 102–3.105(j) and 102–3.140, interested persons may submit a written statement for consideration by the DSB at any time regarding its mission or in response to the stated agenda of a planned meeting. Individuals submitting a written statement must submit their statement to the DSB DFO provided in this notice at any point; however, if a written statement is not received at least 3 calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the DSB members until the next meeting of the DSB. The DFO will review all submissions with the DSB Chair and ensure they are provided to members of the DSB before its final deliberations on May 18, 2017.

Dated: May 11, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–09853 Filed 5–15–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0025]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Written Application for the Independent Living Services for Older Individuals Who Are Blind Formula Grant

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before June 15, 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–0025. 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 226–62, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact James Billy, 202–245–7273.

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: Written Application for the Independent Living Services for Older Individuals Who are Blind Formula Grant.

OMB Control Number: 1820–0660.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 56.

Total Estimated Number of Annual Burden Hours: 9.

Abstract: This document is used by States to request funds to administer the Independent Living Services for Older Individuals Who are Blind (IL–OIB) program. The IL–OIB is provided for under Title VII, Chapter 2 of the Rehabilitation Act of 1973, as amended (Act) to assist individuals who are age 55 or older whose significant visual impairment makes competitive employment extremely difficult to attain but for whom independent living goals are feasible.

Dated: May 10, 2017.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–09828 Filed 5–15–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Striving Readers Comprehensive Literacy Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education is issuing a notice inviting applications for new awards for fiscal year (FY) 2017 for Striving Readers Comprehensive Literacy Programs, Catalog of Federal Domestic Assistance (CFDA) number 84.371C.

DATES: *Applications Available:* May 16, 2017.

Deadline for Transmittal of Applications: July 17, 2017.

Deadline for Intergovernmental Review: September 13, 2017.

FOR FURTHER INFORMATION CONTACT: Cindy Savage, U.S. Department of Education, 400 Maryland Avenue SW., room 3E237, Washington, DC 20202–6450. Telephone: (202) 453–5998 or by email: *OESE.SRCL@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Striving Readers Comprehensive Literacy (SRCL) Program awards competitive grants to advance literacy skills, including pre-literacy skills, reading, and writing, for children from birth through grade 12, with an emphasis on disadvantaged children, including children living in poverty, English learners, and children with disabilities.

Priorities: These priorities are from the notice of final priorities, requirements, definitions, and selection criteria for this program, published elsewhere in this issue of the **Federal Register** (NFP).

Absolute Priority: For FY 2017 and any subsequent year in which we make awards based on the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

Interventions and Practices Supported by Moderate or Strong Evidence.

Under this priority, a State educational agency (SEA) must ensure that evidence plays a central role in the SRCL subgrants. Specifically, in its high-quality plan, an SEA must assure that (1) it will use an independent peer review process to prioritize awards to eligible subgrantees that propose high-quality comprehensive literacy instruction programs that are supported by moderate evidence or strong evidence, where evidence is applicable and available, and (2) the comprehensive literacy instruction program proposed by eligible subgrantees will align with the State's comprehensive literacy plan as well as local needs.

Competitive Preference Priorities: For FY 2017 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i) we award up to an additional five points to an application for each competitive preference priority, depending on how well the application meets one or more of these priorities.

These priorities are:

Competitive Preference Priority 1—Serving Disadvantaged Children.

Under this priority, an SEA must describe in its application a high-quality plan to award subgrants that will serve the greatest numbers or percentages of disadvantaged children, including children living in poverty, English learners, and children with disabilities.

Competitive Preference Priority 2—Alignment within a Birth through Fifth Grade Continuum.

Under this priority, an SEA must describe in its application a high-quality plan to align, through a progression of approaches appropriate for each age group, early language and literacy projects supported by this grant that serve children from birth to age five with programs and systems that serve students in kindergarten through grade five to improve school readiness and transitions for children across this continuum.

Requirements: The State Funding Allocations requirement is from Title III of Division H of the Consolidated Appropriations Act, 2016 (Pub. L. 114–113). The rest of these requirements are from the NFP.

State Funding Allocations.

Grantees must—

(1) Subgrant no less than 95 percent of funds received under this competition to eligible subgrantees;

(2) Ensure that at least—

(a) 15 percent of the subgranted funds serve children from birth through age five;

(b) 40 percent of the subgranted funds serve students in kindergarten through grade five; and

(c) 40 percent of the subgranted funds serve students in middle and high school, including an equitable distribution of funds between middle and high schools.

State Comprehensive Literacy Plan.

To be considered for an award under this program, an SEA must submit a new or revised State comprehensive literacy plan that is informed by a recent (conducted in the past five years) and comprehensive needs assessment developed with the assistance of its State literacy team. Additionally, the plan must be reviewed by the State literacy team and updated annually if an SEA receives an award under this program.

Local Literacy Plan.

Grantees must ensure that they will only fund subgrantees that submit a local literacy plan that: (1) is informed by a comprehensive needs assessment and that is aligned with the State comprehensive literacy plan; (2) provides for professional development; (3) includes interventions and practices that are supported by moderate evidence or strong evidence, where evidence is applicable and available; and (4) includes a plan to track children's outcomes consistent with all applicable privacy requirements.

Prioritization of Subgrants.

In selecting among eligible subgrantees, an SEA must give priority to eligible subgrantees serving greater numbers or percentages of disadvantaged children.

Continuous Program Improvement.

Grantees must use data, including the results of monitoring and evaluations and other administrative data, to inform the program's continuous improvement and decisionmaking, to improve program participant outcomes, and to ensure that disadvantaged children are served. Additionally, grantees must ensure that subgrantees, educators, families, and other key stakeholders receive the results of the evaluations conducted on the effectiveness of the program in a timely fashion, consistent with all applicable Federal, State, and other privacy requirements.

Supplement not Supplant.

Grantees must use funds under this program to supplement, and not supplant, any non-Federal funds that would be used to advance literacy skills for children from birth through grade 12.

Cooperation with National Evaluation.

Applicants must assure they will only fund subgrantees that provide a written assurance to cooperate with a national evaluation of the SRCL program. This may include adhering to the results of a random assignment process (*e.g.,* lottery) to select schools or early learning providers that will receive SRCL funds as well as agreeing to implement the literacy interventions proposed to be funded under SRCL only in schools or early learning providers that will receive SRCL funds.

Definitions: The definition of ''child with a disability'' is from the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act (NCLB). The rest of these definitions are from the NFP.

Child with a disability has the same meaning given that term in section 602 of the Individuals with Disabilities Education Act.[1]

Comprehensive literacy instruction means instruction that—

(a) Includes developmentally appropriate, contextually explicit, and systematic instruction, and frequent practice, in reading and writing across content areas;

(b) Includes age-appropriate, explicit, systematic, and intentional instruction in phonological awareness, phonic decoding, vocabulary, language structure, reading fluency, and reading comprehension;

(c) Includes age-appropriate, explicit instruction in writing, including opportunities for children to write with clear purposes, with critical reasoning appropriate to the topic and purpose, and with specific instruction and feedback from instructional staff;

(d) Makes available and uses diverse, high-quality print materials that reflect the reading and development levels, and interests, of children;

(e) Uses differentiated instructional approaches, including individual and small group instruction and discussion;

(f) Provides opportunities for children to use language with peers and adults in order to develop language skills, including developing vocabulary;

(g) Includes frequent practice of reading and writing strategies;

(h) Uses age-appropriate, valid, and reliable screening assessments, diagnostic assessments, formative assessment processes, and summative assessments to identify a child's learning needs, to inform instruction, and to monitor the child's progress and the effects of instruction;

(i) Uses strategies to enhance children's motivation to read and write and children's engagement in self-directed learning;

(j) Incorporates the principles of universal design for learning;

(k) Depends on teachers' collaboration in planning, instruction, and assessing a child's progress and on continuous professional learning; and

(l) Links literacy instruction to the State's challenging academic standards, including standards relating to the ability to navigate, understand, and write about complex subject matters in print and digital formats.

Disadvantaged child means a child from birth to grade 12 who is at risk of educational failure or otherwise in need of special assistance and support, including a child living in poverty, a child with a disability, or a child who is an English learner. This term also includes infants and toddlers with developmental delays or a child who is far below grade level, who has left school before receiving a regular high school diploma, who is at risk of not graduating with a diploma on time, who is homeless, who is in foster care, or who has been incarcerated.

Eligible subgrantee means one or more LEAs or, in the case of early literacy, one or more LEAs or nonprofit providers of early childhood education, with a demonstrated record of effectiveness in improving language and early literacy development of children from birth through age five and in providing professional development in language and early literacy development.

English learner means an individual—

(a) Who is aged 3 through 21;

(b) Who is enrolled or preparing to enroll in an elementary school or secondary school;

(c)(i) Who was not born in the United States or whose native language is a language other than English;

(ii)(I) Who is a Native American or Alaska Native, or a native resident of the outlying areas; and

(II) Who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

(iii) Who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

(d) Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—

(i) The ability to meet the challenging State academic standards;

[1] Child with a disability has the same meaning in the ESEA, as amended by NCLB, and in the ESEA, as amended by the Every Student Succeeds Act (ESSA).

(ii) The ability to successfully achieve in classrooms where the language of instruction is English; or

(iii) The opportunity to participate fully in society.

Evidence-based, when used with respect to a State, local educational agency, or school activity, means an activity, strategy, or intervention that—

(a) Demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes based on—

(i) Strong evidence from at least one well-designed and well-implemented experimental study;

(ii) Moderate evidence from at least one well-designed and well-implemented quasi-experimental study; or

(iii) Promising evidence from at least one well-designed and well-implemented correlational study with statistical controls for selection bias; or

(b)(i) Demonstrates a rationale based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes; and

(ii) Includes ongoing efforts to examine the effects of such activity, strategy or intervention.

High-quality plan means any plan developed by the SEA that is feasible and has a high probability of successful implementation and, at a minimum, includes—

(a) The key goals of the plan;

(b) The key activities to be undertaken and the rationale for how the activities support the key goals;

(c) A realistic timeline, including key milestones, for implementing each key activity;

(d) The party or parties responsible for implementing each activity and other key personnel assigned to each activity;

(e) A strong theory, including a rationale for the plan and a corresponding logic model as defined in 34 CFR 77.1;

(f) Performance measures at the State and local levels; and

(g) Appropriate financial resources to support successful implementation of the plan.

Independent peer review means a high-quality, transparent review process informed by outside individuals with expertise in literacy development and education for children from birth through grade 12.

Moderate evidence means a statistically significant effect on improving student outcomes or other relevant outcomes based on at least one well-designed and well-implemented quasi-experimental study.

Professional development means activities that—

(a) Are an integral part of school and LEA strategies for providing educators (including teachers, principals, other school leaders, specialized instructional support personnel, paraprofessionals, and, as applicable, early childhood educators) with the knowledge and skills necessary to enable students to succeed in a well-rounded education and to meet the State's challenging academic standards;

(b) Are sustained (not stand-alone, one-day, or short term workshops), intensive, collaborative, job-embedded, data-driven, and classroom-focused; and

(c) May include activities that—

(1) Improve and increase teachers'—

(i) Knowledge of the academic subjects the teachers teach;

(ii) Understanding of how students learn; or

(iii) Ability to analyze student work and achievement from multiple sources, including how to adjust instructional strategies, assessments, and materials based on such analysis;

(2) Are an integral part of broad schoolwide and districtwide educational improvement plans;

(3) Allow personalized plans for each educator to address the educator's specific needs identified in observation or other feedback;

(4) Improve classroom management skills;

(5) Support the recruitment, hiring, and training of effective teachers, including teachers who became certified through State and local alternative routes to certification;

(6) Advance teacher understanding of—

(i) Effective instructional strategies that are evidence-based; or

(ii) Strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of teachers;

(7) Are aligned with, and directly related to, academic goals of the school or LEA;

(8) Are developed with extensive participation of teachers, principals, other school leaders, parents, representatives of Indian Tribes (as applicable), and administrators of schools to be served under this program;

(9) Are designed to give teachers of English learners, and other teachers and instructional staff, the knowledge and skills to provide instruction and appropriate language and academic support services to those children, including the appropriate use of curricula and assessments;

(10) To the extent appropriate, provide training for teachers, principals, and other school and community-based early childhood program leaders in the use of technology (including education about the harms of copyright piracy), so that technology and technology applications are effectively used in the classroom to improve teaching and learning in the curricula and academic subjects in which the teachers teach;

(11) As a whole, are regularly evaluated for their impact on teacher effectiveness and student academic achievement, with the findings of the evaluations used to improve the quality of professional development;

(12) Are designed to give teachers of children with disabilities or children with developmental delays, and other teachers and instructional staff, the knowledge and skills to provide instruction and academic support services to those children, including positive behavioral interventions and supports, multi-tier system of supports, and use of accommodations;

(13) Provide instruction in the use of data and assessments to inform classroom practice;

(14) Provide instruction in ways that teachers, principals, other school leaders, specialized instructional support personnel, and school administrators may work more effectively with parents and families;

(15) Involve the forming of partnerships with institutions of higher education, including, as applicable, Tribal Colleges and Universities as defined in section 316(b) of the Higher Education Act of 1965, as amended (20 U.S.C. 1059c(b)), to establish school-based teacher, principal, and other school leader training programs that provide prospective teachers, novice teachers, principals, and other school leaders with an opportunity to work under the guidance of experienced teachers, principals, other school leaders, and faculty of such institutions;

(16) Create programs to enable paraprofessionals (assisting teachers employed by an LEA receiving assistance under part A of title I) to obtain the education necessary for those paraprofessionals to become certified and licensed teachers;

(17) Provide follow-up training to teachers who have participated in activities described in this paragraph (c) that are designed to ensure that the knowledge and skills learned by the teachers are implemented in the classroom; or

(18) Where practicable, provide for school staff and other early childhood education program providers to address jointly the transition to elementary school, including issues related to school readiness.

State comprehensive literacy plan means a plan that addresses the pre-literacy and literacy needs of children from birth through grade 12, with special emphasis on disadvantaged children. A State comprehensive literacy plan is informed by a recent (conducted in the past five years) comprehensive needs assessment; aligns policies, resources, and practices; contains clear instructional goals; sets high expectations for all children and subgroups of children; and provides for professional development for all teachers in effective literacy instruction.

State literacy team means a team comprised of individuals with expertise in literacy development and education for children from birth through grade 12. The State literacy team must include individuals with expertise in the following areas:

(a) Implementing literacy development practices and instruction for children in the following age/grade levels: Birth through age five, kindergarten through grade 5, grades 6 through 8, and grades 9 through 12;

(b) Managing and implementing literacy programs that are supported by strong evidence or moderate evidence;

(c) Evaluating comprehensive literacy instruction programs;

(d) Planning for and implementing effective literacy interventions and practices, particularly for disadvantaged children, children living in poverty, struggling readers, English learners, and children with disabilities;

(e) Implementing assessments in the areas of phonological awareness, word recognition, phonics, vocabulary, comprehension, fluency, and writing; and

(f) Implementing professional development on literacy development and instruction.

A literacy team member may have expertise in more than one area. Team members may also include, but are not limited to: Library/media specialists; parents; literacy coaches; instructors of adult education; representatives of community-based organizations providing educational services to disadvantaged children and families; family literacy service providers; representatives from local or State school boards; and representatives from related child services agencies.

Strong evidence means a statistically significant effect on improving student outcomes or other relevant outcomes based on at least one well-designed and well-implemented experimental study.

Universal design for learning, as defined under section 103 of the Higher Education Act of 1965, as amended, means a scientifically valid framework for guiding educational practice that—

(a) Provides flexibility in the ways information is presented, in the ways students respond or demonstrate knowledge and skills, and in the ways students are engaged; and

(b) Reduces barriers in instruction, provides appropriate accommodations, supports, and challenges, and maintains high achievement expectations for all students, including students with disabilities and students who are limited English proficient.[2]

Program Authority: Section 1502 of the ESEA, as amended by the NCLB, and Title III of Division H of the Consolidated Appropriations Act, 2016 (Pub. L. 114–113).[3]

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The NFP.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $190,000,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Estimated Range of Awards: $3,000,000—$80,000,000.

Estimated Average Size of Awards: $18,000,000.

Estimated Number of Awards: 5—10. The Department may make awards under this competition for the complete three-year (36-month) project period using FY 2016 and FY 2017 funds.

Note: The Department is not bound by any estimates in this notice.

Project Period: 36 months.

III. Eligibility Information

1. *Eligible Applicants:* SEAs of the 50 States, the District of Columbia, and Puerto Rico (referred to in this notice as State).

2. a. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

b. *Supplement-Not-Supplant:* As specified under *Requirements,* this program involves supplement-not-supplant funding requirements.

3. *Eligible Subgrantees:* (a) Under 34 CFR 75.708(b) and (c) a grantee may award subgrants—to directly carry out project activities described in its application—to the following types of entities: One or more LEAs or, in the case of early literacy, one or more LEAs or nonprofit providers of early childhood education, with a demonstrated record of effectiveness in improving language and early literacy development of children from birth through age five and in providing professional development in language and early literacy development.

(b) The grantee may award subgrants to entities it selects through a competition under procedures established by the grantee.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the internet, from the Education Publications Center (ED Pubs), or from the program office.

To obtain a copy via the internet, use the following address:

ww.ed.gov/fund/grant/apply/grantapps/index.html.

To obtain a copy from ED Pubs, write, fax, or call: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application package from ED Pubs, be sure to identify this program as follows: CFDA number 84.371C.

To obtain a copy from the program office, contact: Cindy Savage, U.S.

[2] English learner and limited English proficient have the same meaning.

[3] Title III of Division H of the Consolidated Appropriations Act, 2016 (Pub L. 114–113) appropriated funds for the SRCL program under section 1502 of the ESEA, as amended by the NCLB. As such, the upcoming SRCL competition will be conducted under that authority. The Department notes that the ESEA, as amended in December 2015 by the ESSA, authorizes the Comprehensive Literacy State Development (CLSD) program, a program that is substantively similar to SRCL. See sections 2221–2224 of the ESEA, as amended by the ESSA. To provide for the orderly transition to future programs under the ESSA, the priorities, requirements, definitions, and selection criteria that apply to the SRCL program through this notice align, to the extent possible, with certain new statutory requirements that will apply to the CLSD program.

Department of Education, 400 Maryland Avenue SW., room 3E237, Washington, DC 20202. Telephone: (202) 453–5998 or by email: *OESE.SRCL@ed.gov.* If you use a TDD or TTY, call the FRS, toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

2. *Content and Form of Application Submission:*

Page Limit: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you: (1) Limit the application narrative to no more than 50 pages, and (2) use the following standards:

- A ''page'' is 8.5″ × 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the recommended page limit does apply to all of the application narrative, which includes responses to the priorities and selection criteria.

Requirements concerning the content and form of an application, together with the forms you must submit, are in the application package for this competition.

3. *Submission Dates and Times:*

Applications Available: May 16, 2017.

Deadline for Transmittal of Applications: July 17, 2017.

Applications for grants under this competition must be submitted electronically using the *Grants.gov* Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to *Other Submission Requirements* in section IV of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact either person listed under **FOR FURTHER INFORMATION CONTACT**. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: September 13, 2017.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education (Department), you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following Web site: *http://fedgov.dnb.com/webform.* A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, it may be 24 to 48 hours before you can access the information in, and submit an application through, *Grants.gov*.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via *Grants.gov*, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with *Grants.gov* as an AOR. Details on these steps are outlined at the following *Grants.gov* Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements.*

Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the SRCL program, CFDA 84.371C, must be submitted electronically using the Governmentwide *Grants.gov* Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written

statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the SRCL program at *www.Grants.gov*. You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.371, not 84.371C).

Please note the following:

- When you enter the *Grants.gov* site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by *Grants.gov* are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the *Grants.gov* system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the *Grants.gov* system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from *Grants.gov*, we will notify you if we are rejecting your application because it was date and time stamped by the *Grants.gov* system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through *Grants.gov*.
- You should review and follow the Education Submission Procedures for submitting an application through *Grants.gov* that are included in the application package for this competition to ensure that you submit your application in a timely manner to the *Grants.gov* system. You can also find the Education Submission Procedures pertaining to *Grants.gov* under News and Events on the Department's G5 system home page at *www.G5.gov.* In addition, for specific guidance and procedures for submitting an application through *Grants.gov*, please refer to the *Grants.gov* Web site at: *www.grants.gov/web/grants/applicants/apply-for-grants.html.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a read-only, flattened Portable Document Format (PDF), meaning any fillable PDF documents must be saved as flattened non-fillable files. Therefore, do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, flattened PDF (*e.g.,* Word, Excel, WordPerfect, etc.) or submit a password-protected file, we will not review that material. Please note that this could result in your application not being considered for funding because the material in question—for example, the application narrative—is critical to a meaningful review of your proposal. For that reason, it is important to allow yourself adequate time to upload all material as PDF files. The Department will not convert material from other formats to PDF. There is no need to password protect a file in order to meet the requirement to submit a read-only flattened PDF. And, as noted above, the Department will not review password-protected files. Additional, detailed information on how to attach files is in the application instructions.
- After you electronically submit your application, you will receive from *Grants.gov* an automatic notification of receipt that contains a *Grants.gov* tracking number. This notification indicates receipt by *Grants.gov* only, not receipt by the Department. *Grants.gov* will also notify you automatically by email if your application met all the *Grants.gov* validation requirements or if there were any errors (such as submission of your application by someone other than a registered Authorized Organization Representative, or inclusion of an attachment with a file name that contains special characters). You will be given an opportunity to correct any errors and resubmit, but you must still meet the deadline for submission of applications.

Once your application is successfully validated by *Grants.gov*, the Department will retrieve your application from *Grants.gov* and send you an email with a unique PR/Award number for your application.

These emails do not mean that your application is without any disqualifying errors. While your application may have been successfully validated by *Grants.gov*, it must also meet the Department's application requirements as specified in this notice and in the application instructions. Disqualifying errors could include, for instance, failure to upload attachments in a read-only, flattened PDF; failure to submit a required part of the application; or failure to meet applicant eligibility requirements. It is your responsibility to ensure that your submitted application has met all of the Department's requirements.

- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through *Grants.gov,* please contact the *Grants.gov* Support Desk, toll free, at 1–800–518–4726. You must obtain a *Grants.gov* Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the *Grants.gov* system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** and provide an explanation of the technical problem you experienced with *Grants.gov*, along with the *Grants.gov* Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the *Grants.gov* system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. We will contact you after we determine whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the *Grants.gov* system. We will not grant you an extension if you failed to fully register to submit your application to *Grants.gov* before the application deadline date and time or if the technical problem you experienced is unrelated to the *Grants.gov* system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the *Grants.gov* system because—

- You do not have access to the internet; or
- You do not have the capacity to upload large documents to the *Grants.gov* system;

and

- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Cindy Savage, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E237, Washington, DC 20202. FAX: (202) 260–8969.

Your paper application must be submitted in accordance with the mail or hand-delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: CFDA Number 84.371C, LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider applications postmarked after the application deadline date.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: CFDA Number 84.371C, 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from the NFP and 34 CFR 75.210, and are as follows:

(a) *State-level activities (30 points).*

To determine the quality of the applicant's State-level activities, the Secretary considers—

(1) The extent to which the SEA will support and provide technical assistance to its SRCL program subgrantees to ensure they implement a high-quality comprehensive literacy instruction program that will improve student achievement, including technical assistance on identifying and implementing with fidelity interventions and practices that are supported by moderate evidence or strong evidence and align with local needs; and

(2) The extent to which the SEA will collect data and other information to inform the continuous improvement, and evaluate the effectiveness and impact, of local projects.

(b) *SEA plan for subgrants (20 points).*

To determine the quality of the applicant's SEA plan for subgrants, the Secretary considers the extent to which the SEA has a high-quality plan to use an independent peer review process to award subgrants that propose a high-quality comprehensive literacy instruction program, including—

(1) A plan to prioritize projects that will use interventions and practices that are supported by moderate evidence or strong evidence; and

(2) A process to determine—

(i) The extent to which the intervention or practice is supported by moderate evidence or strong evidence;

(ii) The alignment of the local project to the State's comprehensive literacy plan and the local literacy plan;

(iii) The extent to which the interventions and practices are differentiated and are appropriate for children from birth through age five and children in kindergarten through grade 5; and

(iv) The relevance of cited studies to the project proposed and identified needs.

(c) *SEA monitoring plan (30 points).*

To determine the quality of the applicant's SEA monitoring plan, the Secretary considers the extent to which the SEA describes a high-quality plan for monitoring local projects, including how it will ensure that—

(1) The interventions and practices that are part of the comprehensive literacy instruction program are aligned with the SEA's State comprehensive literacy plan;

(2) The interventions and practices that subgrantees implement are supported by moderate evidence or strong evidence, to the extent appropriate and available;

(3) The interventions and practices are differentiated and are appropriate for children from birth through age five and children in kindergarten through grade 5; and

(4) The interventions and practices are implemented with fidelity and aligned with the SEA's State comprehensive literacy plan and local literacy plan.

(d) *Alignment of resources (10 points).*

To determine the quality of the applicant's alignment of resources, the Secretary considers the extent to which the SEA will:

(1) Target subgrants supporting projects that will improve instruction for the greatest numbers or percentages of disadvantaged children; and

(2) Award subgrants of sufficient size to fully and effectively implement the local plan while also ensuring that at least—

(a) 15 percent of the subgranted funds serve children from birth through age five;

(b) 40 percent of the subgranted funds serve students in kindergarten through grade five; and

(c) 40 percent of the subgranted funds serve students in middle and high school, through grade 12, including an equitable distribution of funds between middle and high schools.

(e) *Adequacy of resources (25 points).*

The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(1) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project; and

(2) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits.

(f) *Quality of the project design (5 points).*

The Secretary considers the quality of the project design. In determining the quality of the design of the proposed project, the Secretary considers the extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this program the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $150,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through SAM. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

4. *Performance Measures:* The Department has established the following Government Performance and Results Act of 1993 performance measures for the SRCL program:

(1) The percentage of participating four-year-old children who achieve significant gains in oral language skills.

(2) The percentage of participating fifth-grade students who meet or exceed proficiency on State reading/language arts assessments under section 1111(b)(2)(B)(v)(I) of the ESEA, as amended by the ESSA.

(3) The percentage of participating eighth-grade students who meet or exceed proficiency on State reading/language arts assessments under section 1111(b)(2)(B)(v)(I) of the ESEA, as amended by the ESSA.

(4) The percentage of participating high school students who meet or exceed proficiency on State reading/language arts assessments under section 1111(b)(2)(B)(v)(I) of the ESEA, as amended by the ESSA.

These measures constitute the Department's indicator of success for this program. Consequently, we advise an applicant for a grant under this program to give careful consideration to these measures in conceptualizing the approach and evaluation for its proposed project. Each grantee will be required to provide, in its annual performance and final reports, data about its progress in meeting these measures.

5. *Continuation Awards:* Grants awarded under this competition may be for a project period of up to three years. The Department will either award grantees their entire three-year award at the time of the initial award, or will award grantees only the first-year portion of their award. If the Department awards grantees only the first-year portion of their award, depending on the availability of funds, the Department will make continuation awards for years two and three in accordance with 34 CFR 75.253. In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to either program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 11, 2017.

Jason Botel,

Acting Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2017–09896 Filed 5–15–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0027]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; G5 System Post Award Budget Drawdown e-Form

AGENCY: Office of Innovation and Improvement (OII), 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 June 15, 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–0027. 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 226–62, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Terpak Kelly, 202–205–5231.

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: G5 System Post Award Budget Drawdown e-Form.

OMB Control Number: 1855–0028.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 30,496.

Total Estimated Number of Annual Burden Hours: 30,496.

Abstract: In response to grant monitors need for a better reporting mechanism for grantee budgets, the G5 team developed a new electronic budget form for grantees to complete. This new electronic form requires grantees to detail the budget categories from which they are expending funds in order for Department grant monitors to track more carefully the drawdowns and financial management systems of grantees. Although this form may be used by all grantees, at this time only grantees on cost reimbursement or route

payment status will be required to use this form when reporting their budget, requesting funds, and accessing funds. Current Department regulations sections 74.20–74.28 and 74.50–74.53 address the financial management and reporting requirements of grantees. The new form developed in G5 serves as the mechanism for grantees to report expenditures and track their spending in order to ensure compliance with Department regulations. The currently used budget form, the SF 524, is not comprehensive enough to meet the needs of grant monitors to efficiently and effectively monitor this sub-set of grantees. This new data collection will enhance the ability of grant monitors to track the budgeting of grantees and the management of their funds.

Dated: May 10, 2017.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–09829 Filed 5–15–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of the Commission's staff may attend the following meeting related to the wholesale markets of ISO New England Inc.:

Integrating Markets and Public Policy: May 17, 2017, 9:30 a.m.–5:00 p.m. (EST) Doubletree Hotel, 5400 Computer Drive, Westborough, MA 01581.

Further information may be found at *www.nepool.com/IMAPP.php.*

The discussion at the meeting described above may address matters at issue in the following proceedings:

Docket Nos. EL13–33 and EL 14–86, *Environment Northeast et al.* v. *Bangor Hydro-Electric Company et al.*
Docket No. EL16–19, *ISO New England Inc. Participating Transmission Owners Administrative Committee*
Docket No. RP16–618, *Algonquin Gas Transmission, LLC*
Docket No. ER12–1650, *Emera Maine*
Docket No. ER13–2266, *ISO New England Inc.*
Docket No. ER15–1429, *Emera Maine*
Docket No. ER16–551, *ISO New England Inc.*
Docket No. ER16–2451, *ISO New England Inc. and New England Power Pool Participants Committee*
Docket No. EL16–120, *New England Power Generators Association, Inc.* v. *ISO New England Inc.*
Docket No. ER17–795, *ISO New England Inc.*
Docket No. ER17–933, *Exelon Generation Company, LLC*
Docket No. ER17–1441, *ISO New England Inc. and New England Power Pool Participants Committee*
Docket No. ER17–1542, *ISO New England Inc. and New England Power Pool Participants Committee*

For more information, contact Michael Cackoski, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–6169 or *Michael.Cackoski@ferc.gov.*

Dated: May 9, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–09807 Filed 5–15–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2685–029]

New York Power Authority; Notice of Application Tendered for Filing With the Commission and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2685–029.

c. *Date Filed:* April 27, 2017.

d. *Applicant:* New York Power Authority (NYPA).

e. *Name of Project:* Blenheim-Gilboa Pumped Storage Project (Blenheim-Gilboa Project).

f. *Location:* The existing project is located on Schoharie Creek in the towns of Blenheim and Gilboa in Schoharie County, New York. The project does not occupy lands of the United States.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Robert A. Daly, Licensing Manager, New York Power Authority, 123 Main Street, White Plains, New York 10601; (914) 681–6564; *Rob.Daly@nypa.gov.*

i. *FERC Contact:* Andy Bernick, (202) 502–8660 or *andrew.bernick@ferc.gov.*

j. This application is not ready for environmental analysis at this time.

k. *Project Description:* The existing Blenheim-Gilboa Project consists of the following: (1) a 2.25-mile-long, 30-foot-wide earth and rock fill embankment dike with a maximum height of 110 feet, constructed at Brown Mountain and forming the 399-acre Upper Reservoir (operating at the maximum and extreme minimum elevations of 2,003 feet and 1,955 feet National Geodetic Vertical Datum of 1929 [NGVD 29], respectively) with 15,085 acre-feet of usable storage and dead storage of 3,706 acre-feet below elevation 1,955 feet NGVD 29; (2) a 655-foot-long emergency spillway with a 25-foot-wide asphaltic concrete crest at elevation 2,005 feet NGVD 29 and a capacity of 10,200 cubic feet per second (cfs); (3) an intake system that includes: (i) A 125-foot-wide hexagonal-shaped intake cover with trash racks with a clear spacing of 5.25 inches; (ii) a 1,042-foot-long, 28-foot-diameter, concrete-lined vertical shaft in the bottom of the Upper Reservoir; (iii) a 906-foot-long horizontal, concrete-lined rock tunnel; and (iv) a 460-foot-long concrete-lined manifold that distributes flow to four 12-foot-diameter steel-lined penstocks, each with a maximum length of about 1,960 feet, to four pump-turbines located at the powerhouse; (4) a 526-foot-long, 172-foot-wide, and 132-foot-high multi-level powerhouse located along the east bank of the Lower Reservoir at the base of Brown Mountain, containing four reversible pump turbines that each produce approximately 290 megawatts (MW) in generation mode, and have a total maximum discharge of 12,800 cfs during generation and 10,200 cfs during pumping; (5) a bottom trash rack with a clear spacing of 5.625 inches, and four upper trash racks with a clear spacing of 5.25 inches; (6) an 1,800-foot-long central core, rock-filled lower dam with a maximum height of 100 feet that impounds Schoharie Creek to form the 413-acre Lower Reservoir (operating at the maximum and minimum elevations of 900 feet and 860 feet NGVD 29, respectively) with 12,422 acre-feet of usable storage and dead storage of 3,745 acre-feet below 860 feet NGVD 29; (7) three 38-foot-wide by 45.5-foot-high Taintor gates at the left end of the lower dam; (8) a 425-foot-long, 134-foot-wide concrete spillway structure with a crest elevation of 855 feet NGVD 29; (9) a 238-foot-long, 68.5-foot-deep concrete stilling basin; (10) a low level outlet with four discharge valves of 4, 6, 8, and 10 inches for release of 5 to 25 cfs, and two 36-inch-diameter Howell-Bunger valves to release a combined flow of 25

to 700 cfs; (10) a switchyard on the eastern bank of Schoharie Creek adjacent to the powerhouse; and (11) appurtenant facilities.

During operation, the Blenheim-Gilboa Project's pump-turbines may be turned on or off several times throughout the day, but the project typically generates electricity during the day when consumer demand is high and other power resources are more expensive. Pumping usually occurs at night and on weekends when there is excess electricity in the system available for use. According to a July 30, 1975, settlement agreement, NYPA releases a minimum flow of 10 cubic feet per second (cfs) during low-flow periods when 1,500 acre-feet of water is in storage, and 7 cfs when less than 1,500 acre-feet is in storage. For the period 2007 through 2016, the project's average annual generation was about 374,854 megawatt-hours (MWh) and average annual energy consumption from pumping was about 540,217 MWh.

l. *Locations of the Application:* A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in item (h) above.

m. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. *Procedural Schedule:* On September 6, 2016, Commission staff issued a revised process plan and schedule with milestones and dates for the filing and review of NYPA's remaining study reports. NYPA filed its remaining study report on February 17, 2017. The Director, Office of Energy Projects will make a final determination on the need to modify the approved study plan for the remaining study by June 18, 2017. At this time, the application is expected to be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule may be made following the Director's determination on the remaining study, and as appropriate.

Milestone	Target date
Notice of Acceptance/Notice of Ready for Environmental Analysis	June 2017.
Filing of recommendations, preliminary terms and conditions, and fishway prescriptions	August 2017.
Commission issues Draft Environmental Assessment (EA) or Environmental Impact Statement (EIS)	February 2018.
Comments on Draft EA or EIS	April 2018.
Modified terms and conditions	June 2018.
Commission issues Final EA or EIS	September 2018.

o. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: May 9, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–09799 Filed 5–15–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–133–000]

Northwest Pipeline LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed North Fork Nooksack Line Lowering Project Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the North Fork Nooksack Line Lowering Project (Nooksack Lowering Project or Project) involving construction and operation of facilities by Northwest Pipeline LLC (Northwest) in Whatcom County, Washington. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before June 8, 2017.

If you sent comments on this project to the Commission before the opening of this docket on April 6, 2017, you will need to refile those comments in Docket No. CP17–133–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

Northwest provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC Web site (*www.ferc.gov*).

Public Participation

For your convenience, there are three methods you can use to submit your comments to the Commission. The

Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (CP17–133–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Summary of the Proposed Project

Northwest proposes to remove, replace, and lower about 1,700 feet of 30-inch-diameter pipeline in the north floodplain of the North Fork Nooksack River. The project also includes removal of about 1,550 feet of previously abandoned in place 26-inch-diameter pipeline that will become exposed during the replacement of the 30-inch pipeline. The Project is located in Whatcom County, near Deming, Washington. According to Northwest the Project would: (1) ensure system reliability; (2) preserve service continuity; and 3) to comply with Whatcom County requirements to complete a long-term solution and reduce long-term impediments to facilitate future natural channel migration.

The general location of the project facilities is shown in appendix 1.[1]

Land Requirements for Construction

Construction of the proposed facilities would disturb a total of about 24.3 acres of land for lowering of the 30-inch diameter pipeline and removal of 26-inch-diameter pipeline. No new permanent easement would be required. Following construction, all construction work areas would be restored and revert to former uses. The pipeline corridor in the Project area includes three existing pipelines and work would be completed within its existing right-of-way. About 100 percent of the proposed pipeline route parallels its existing pipeline.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [2] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- land use;
- water resources, fisheries, and wetlands;
- cultural resources;
- vegetation and wildlife including migratory birds;
- air quality and noise;
- endangered and threatened species;
- public safety; and
- cumulative impacts.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate with us in the preparation of the EA.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Office (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] We, us, and our refer to the environmental staff of the Commission's Office of Energy Projects.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If we publish and distribute the EA, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an intervenor which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the Document-less Intervention Guide under the e-filing link on the Commission's Web site. Motions to intervene are more fully described at *http://www.ferc.gov/resources/guides/how-to/intervene.asp.*

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *www.ferc.gov* using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* CP17–133–000. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Finally, public sessions or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: May 9, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–09802 Filed 5–15–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC17–113–000.

Applicants: TigerGenCo, LLC, Red Oak Power, LLC.

Description: Joint Application of TigerGenCo, LLC, et al. for Authorization Under Section 203 of the Federal Power Act and Requests for Waivers, Confidential Treatment and Expedited Action.

Filed Date: 5/8/17.

Accession Number: 20170508–5202.

Comments Due: 5 p.m. ET 5/30/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–792–002.

Applicants: New Harquahala Generating Company, LLC.

Description: Compliance filing: Compliance Filing to be effective N/A.

Filed Date: 5/8/17.

Accession Number: 20170508–5162.

Comments Due: 5 p.m. ET 5/30/17.

Docket Numbers: ER16–793–002.

Applicants: Talen Montana, LLC.

Description: Compliance filing: Compliance Filing to be effective N/A.

Filed Date: 5/8/17.

Accession Number: 20170508–5159.

Comments Due: 5 p.m. ET 5/30/17.

Docket Numbers: ER16–795–002.

Applicants: Talen Energy Marketing, LLC.

Description: Compliance filing: Compliance Filing to be effective N/A.

Filed Date: 5/8/17.

Accession Number: 20170508–5163.

Comments Due: 5 p.m. ET 5/30/17.

Docket Numbers: ER16–893–002; ER15–1065 002; ER15–1066 002; ER15–1676 002; ER16–1371 003; ER16–1990 002; ER16–892 001; ER17–239 001.

Applicants: 62SK 8ME LLC,63SU 8ME LLC, Balko Wind, LLC, Balko Wind Transmission, LLC, North Star Solar PV LLC, Red Horse III, LLC, Red Horse Wind 2, LLC, TPE Alta Luna, LLC.

Description: Notice of Change in Status of the DESRI MBR Sellers.

Filed Date: 5/8/17.

Accession Number: 20170508–5200.

Comments Due: 5 p.m. ET 5/30/17.

Docket Numbers: ER17–1569–000.

Applicants: ITC Great Plains, LLC.

Description: § 205(d) Rate Filing: License Agreement to be effective 7/7/2017.

Filed Date: 5/8/17.

Accession Number: 20170508–5166.

Comments Due: 5 p.m. ET 5/30/17.

Docket Numbers: ER17–1570–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Compliance filing: 2017–05–08_Energy Offer Cap Order 831 Final Rule Compliance Filing to be effective 12/1/2017.

Filed Date: 5/8/17.

Accession Number: 20170508–5171.

Comments Due: 5 p.m. ET 5/30/17.

Docket Numbers: ER17–1571–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2017–05–08_Operating Reserve Demand Curve revisions related to Order 831 to be effective 12/1/2017.

Filed Date: 5/8/17.

Accession Number: 20170508–5173.

Comments Due: 5 p.m. ET 5/30/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 9, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–09795 Filed 5–15–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DI17–6–000]

City of Hailey; Notice of Declaration of Intention and Soliciting Comments, Protests, and Motions To Intervene

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No:* DI17–6–000.

c. *Date Filed:* April 10, 2017.

d. *Applicant:* City of Hailey.

e. *Name of Project:* Indian Creek Spring Hydroelectric Project.

f. *Location:* The proposed Indian Creek Spring Hydroelectric Project would be located on Indian Creek, near the Town of Hailey, in Blaine County, Idaho.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b) (2012).

h. *Applicant Contact:* Mariel Miller, Public Works Director, City of Hailey, 115 Main Street South, Hailey, ID 83333, telephone: (208) 788–9815, ext. 24; email: *mariel.miller@haileycityhall.org.*

i. *FERC Contact:* Any questions on this notice should be addressed to Jennifer Polardino, (202) 502–6437, or email: *Jennifer.Polardino@ferc.gov.*

j. *Deadline for filing comments, protests, and motions to intervene is:* 30 days from the issuance date of this notice by the Commission.

The Commission strongly encourages electronic filing. Please file comments, protests, and motions to intervene using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number DI17–4–000.

k. *Description of Project:* The proposed Indian Creek Spring Hydroelectric Project would consist of: (1) An existing spring collection system with an additional six new laterals of perforated pipe and a collection box; (2) two small pumps to bring water to the spring house; (3) an overflow drain and a cut off wall bringing water into the City's existing collection system; (4) a Cipoletti weir; (5) a 2.5-mile-long, 12-inch-diameter penstock; (6) a powerhouse containing one generator with a rated capacity of 69 kilowatts; (7) an 800-foot-longtransmission line connecting the power from the powerhouse to a point of interconnection with the existing utility system; and (8) appurtenant facilities.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the project would affect the interests of interstate or foreign commerce. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) would be located on a non-navigable stream over which Congress has Commerce Clause jurisdiction and would be constructed or enlarged after 1935.

l. *Locations of the Application:* This filing may be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above and in the Commission's Public Reference Room located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* All filings must bear in all capital letters the title COMMENTS, PROTESTS, and MOTIONS TO INTERVENE, as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any Motion to Intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: May 9, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–09797 Filed 5–15–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP17–257–000; PF16–10–000]

WBI Energy Transmission, Inc.; Notice of Application

Take notice that on April 26, 2017, WBI Energy Transmission, Inc. (WBI Energy), 1250 West Century Avenue, Bismarck, North Dakota 58503 filed an application pursuant to section 7 (c) of the Natural Gas Act requesting authorization to construct, install, operate and maintain the Valley Expansion Project (Project). Specifically, WBI proposes to construct, install, operate and maintain: (i) Interconnect facilities with Viking Gas Transmission Company in Clay County, Minnesota; (ii) approximately 37.3 miles of 16-inch diameter pipeline in Clay County, Minnesota and Cass County, North Dakota; (iii) approximately 3,000 horsepower electric compressor station in Cass County, North Dakota; and to (iv) replace two existing town border stations and construct a regulator station in Burleigh, Stutsman and Barnes Counties, North Dakota. WBI Energy states that the Project will provide an

additional source of natural gas to eastern North Dakota and western Minnesota and enhance system reliability for existing and new customers, all as more fully set forth in the application. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any questions regarding the proposed project should be directed to Lori Myerchin, Manager, Regulatory Affairs, WBI Energy Transmission, Inc., 1250 West Century Avenue, Bismarck, North Dakota 58503, or at (701) 530–1563, or *lori.myerchin@wbienergy.com.*

On October 17, 2016, the Commission staff granted WBI Energy's request to utilize the National Environmental Policy Act (NEPA) Pre-Filing Process and assigned Docket No. PF16–10–000 to staff activities involving the project. Now, as of the filing of this application on April 26, 2017, the NEPA Pre-Filing Process for this project has ended. From this time forward, this proceeding will be conducted in Docket No. CP17–257–000, as noted in the caption of this Notice.

Pursuant to section 157.9 of the Commission's rules (18 CFR 157.9), within 90 days of this Notice, the Commission staff will either: Complete its environmental impact statement (EIS) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the EIS for this proposal. The filing of the EIS in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's EIS.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on May 30, 2017.

Dated: May 9, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–09804 Filed 5–15–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–409–000; PF17–1–000]

DTE Midstream Appalachia, LLC; Notice of Application for Certificate of Public Convenience and Necessity

Take notice that on May 1, 2017, DTE Midstream Appalachia, LLC (DTE Midstream), 333 Technology Drive, Suite 255, Canonsburg, Pennsylvania 15317, filed with the Federal Energy Regulatory Commission an abbreviated application under Section 7 of the Natural Gas Act requesting a Certificate of Public Convenience and Necessity authorizing DTE Midstream to construct, install, own, operate and maintain a new interstate natural gas pipeline known as the Birdsboro Pipeline Project. DTE Midstream requests issuance of blanket certificates Pursuant to Part 284, Subpart G and Part 157, Subpart F of the Commission's regulations.

The project will have an initial design capacity of 79,000 Dekatherms per day (Dth/d) and will transport natural gas from a single receipt point at an interconnection with a Texas Eastern Transmission LP (Texas Eastern) interstate pipeline to a single delivery point at a new gas-fired generating facility (Birdsboro Facility), all in Berks County, Pennsylvania. DTE Midstream proposes initial recourse rates and requests approval of its *pro forma* Tariff as well as approval of certain non-conforming terms in the proposed negotiated rate agreement, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''e-Library'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at

FERCOnlineSupport@ferc.gov or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Questions regarding this application may be directed to Kenneth Magyar, DTE Midstream Appalachia, LLC, 333 Technology Drive, Suite 255, Canonsburg, PA 15317; Phone: (724) 416–7263.

Specifically, DTE Midstream proposes 13.19 miles of 12-inch diameter pipeline; installation of a new pig receiver at the Birdsboro Facility; installation of one new meter site adjacent to the Texas Eastern right-of-way, one new pig launcher at the Texas Eastern interconnect; two new taps on the Texas Eastern pipeline; and four valves along the pipeline route spaced to meet the requirements of the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration. DTE Midstream requests Commission issue the requested authorizations by December 15, 2017, in order to meet the June 30, 2018, proposed in-service date. The total cost of the Project is estimated to be approximately $47,276,982.

On October 28, 2016, the Commission granted DTE Midstream's request to utilize the Commission's Pre-Filing Process and assigned Docket Number PF17–1–000 to staff activities involved in the above referenced project. Now, as of the filing of the May 1, 2017 application, the Pre-Filing Process for this project has ended. From this time forward, this proceeding will be conducted in Docket No. CP17–409–000, as noted in the caption of this Notice.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit five copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov*. Persons unable to file electronically should submit original and five copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on May 30, 2017.

Dated: May 9, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–09805 Filed 5–15–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14792–000]

Maysville Pumped Storage, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On July 1, 2016, Maysville Pumped Storage, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of a hydropower project located on the Ohio River in Mason County, Kentucky. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would be developed in three phases. In the final phase the following project would consist of: (1) A 15-foot-high, 40-foot-long concrete intake structure on the Ohio River; (2) two 10-foot-diameter, 1,050-foot-long steel pipes to supply water to the project; (3) a 135-foot-high, 500-foot-long earth fill or roller-compacted, concrete embankment dam surrounding; (4) an upper reservoir with a surface area of 20 acres and a storage capacity of 875 acre-feet; (5) five 12.5-foot to 18 foot-diameter, 2,800-foot-long penstocks; (6) a powerhouse 100-feet-below the lower reservoir containing five pump/generating units with a total capacity of 500 megawatts; (7) a lower reservoir established within an existing underground mine space with a surface area of 212 acres and a storage capacity of 9,540 acre-feet; and (8) a 10,500-foot-long, 230 kilo-volt transmission line to a point of interconnection with the PJM system. The project would have an

estimated average annual generation of 1,296,480 megawatt-hours.

Applicant Contact: Mr. Matthew Shapiro, Gridflex Energy, LLC, 1210 W. Franklin St., Ste. 2, Boise ID 83702. (208) 246–9925.

FERC Contact: Chris Casey, *christiane.casey@ferc.gov,* (202) 502–8577.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14792–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14792) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: May 9, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–09800 Filed 5–15–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–256–000]

Texas Gas Transmission, LLC; Notice of Application

Take notice that on April 26, 2017, Texas Gas Transmission, LLC (Texas Gas), 9 Greenway Plaza, Suite 2800, Houston, Texas 77046, filed in Docket No. CP17–256–000, an application pursuant to Section 7(b) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations, requesting authorization to (i) abandon in place the Morgan City Compressor Station, which consists of one 9,100 horsepower (hp) gas-fired turbine compressor unit, a compressor building, yard and station piping, and appurtenant auxiliary facilities located in St. Mary Parish, Louisiana, (ii) abandon in place one 9,100 hp gas-fired turbine compressor unit and its compressor building at the Lafayette (also known as Youngsville) Compressor Station, located in Lafayette Parish, Louisiana, and (iii) relinquish the firm design capacity associated with the facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, call (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Kathy D. Fort, Manager, Certificates and Tariffs, Texas Gas Transmission, LLC, 610 West Second Street, Owensboro, Kentucky 42301, or by calling (270) 688–6825 (telephone) or (270) 688–6896 (fax), *kathy.fort@bwpmlp.com.*

Pursuant to Section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Motions to intervene, protests and comments may be filed electronically via the Internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link. The Commission strongly encourages electronic filings.

Comment Date: 5 p.m. Eastern Time on May 30, 2017.

Dated: May 9, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–09803 Filed 5–15–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER17–1572–000.
Applicants: Amazon Energy LLC.
Description: § 205(d) Rate Filing: MBR Cat 2 to be effective 5/10/2017.
Filed Date: 5/9/17.
Accession Number: 20170509–5056.
Comments Due: 5 p.m. ET 5/30/17.

Docket Numbers: ER17–1573–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 05–09–2017_SA 3014 Woodstock Hills-NSP GIA (J558) to be effective 5/10/2017.
Filed Date: 5/9/17.
Accession Number: 20170509–5063.
Comments Due: 5 p.m. ET 5/30/17.

Docket Numbers: ER17–1574–000.
Applicants: EUI Affiliate LLC.
Description: Baseline eTariff Filing: EUI Affiliate LLC MBR Tariff to be effective 5/10/2017.
Filed Date: 5/9/17.
Accession Number: 20170509–5095.
Comments Due: 5 p.m. ET 5/30/17.

Docket Numbers: ER17–1575–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Tariff Amendments to Modify ARR/LTCR Eligibility Provisions for Network Service to be effective 7/15/2017.
Filed Date: 5/9/17.
Accession Number: 20170509–5099.
Comments Due: 5 p.m. ET 5/30/17.

Docket Numbers: ER17–1576–000.
Applicants: Duke Energy Carolinas, LLC.
Description: § 205(d) Rate Filing: DEC-Western Carolina RS No. 338 Revised PPA to be effective 7/1/2017.
Filed Date: 5/9/17.
Accession Number: 20170509–5102.
Comments Due: 5 p.m. ET 5/30/17.

Docket Numbers: ER17–1577–000.
Applicants: Reuel Energy LLC.
Description: Baseline eTariff Filing: Reuel Energy LLC MBR Application to be effective 7/7/2017.
Filed Date: 5/9/17.
Accession Number: 20170509–5106.
Comments Due: 5 p.m. ET 5/30/17.

Docket Numbers: ER17–1578–000.
Applicants: Keni Energy LLC.
Description: Baseline eTariff Filing: Keni Energy LLC MBR Application to be effective 7/7/2017.
Filed Date: 5/9/17.
Accession Number: 20170509–5107.
Comments Due: 5 p.m. ET 5/30/17.

Docket Numbers: ER17–1579–000.
Applicants: New York Independent System Operator, Inc.
Description: § 205(d) Rate Filing: NYISO and TC Ravenswood Implementation Agreement re: NYSRC Reliability Rule G.2 to be effective 5/1/2017.
Filed Date: 5/9/17.
Accession Number: 20170509–5112.
Comments Due: 5 p.m. ET 5/30/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 9, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–09796 Filed 5–15–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17–1562–000]

Energy Unlimited, Inc.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request For Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Energy Unlimited, Inc.'s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is May 30, 2017.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 9, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–09798 Filed 5–15–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP13–584–005.

Applicants: Columbia Gas Transmission, LLC.

Description: Columbia Gas Transmission, LLC submits tariff filing per 154.203: Revenue Sharing Report 2017.

Filed Date: 05/02/2017.

Accession Number: 20170502–5117.

Comment Date: 5:00 p.m. Eastern Time on Monday, May 15, 2017.

Docket Numbers: RP17–726–000.

Applicants: Texas Gas Transmission, LLC.

Description: Texas Gas Transmission, LLC submits tariff filing per 154.204: Cap Rel Neg Rate Agmts (NSAP and OHLA Agmts to BP) to be effective 5/1/2017.

Filed Date: 05/02/2017.

Accession Number: 20170502–5028.

Comment Date: 5:00 p.m. Eastern Time on Monday, May 15, 2017.

Docket Numbers: RP17–727–000.

Applicants: Dominion Transmission, Inc.

Description: Dominion Transmission, Inc. submits tariff filing per 154.203: DTI—May 2, 2017 Service Agreement Termination Notice.

Filed Date: 05/02/2017.

Accession Number: 20170502–5172.

Comment Date: 5:00 p.m. Eastern Time on Monday, May 15, 2017.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 3, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–09801 Filed 5–15–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–433–000]

Dominion Transmission, Inc.; Notice of Request Under Blanket Authorization

Take notice that on May 2, 2017, Dominion Transmission, Inc. (DTI), 120 Tredegar Street, Richmond, Virginia 23219 filed a prior notice request pursuant to sections 157.205 and 157.210 of the Commission's regulations under the Natural Gas Act pursuant to its Blanket Certificate issued in Docket No. CP82–537–000 for authorization to modify the certificated horsepower (HP) rating of a new unit at its Burch Ridge Compressor Station in Marshall County, West Virginia. Specifically, DTI seeks to increase the certificated HP of the compressor station unit authorized as part of DTI's Clarington Project in Docket No. CP14–496–000 from 6,130 HP to 6,276 HP. This change will not require any construction of facilities and will not alter the available capacity. The additional HP will not create any additional transportation capacity because the maximum throughput is regulated by site conditions, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this Application should be directed to Matthew Bley, Dominion Transmission, Inc., 707 East Main Street, 20th Floor, Richmond, Virginia 23219, by phone (804) 771–4399, or by fax (804) 771–4804, or by email at *matthew.r.bley@dom.com.*

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenter's will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the e-Filing link. Persons unable to file electronically should submit original and 5 copies of the protest or

intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: May 9, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–09806 Filed 5–15–17; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1081, 3060–1223]

Information Collections Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before July 17, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–1081.

Title: Section 54.202, 54.209, 54.307, 54.313, 54.314, and 54.809, Telecommunications Carriers Eligible for Universal Service Support.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 20 respondents; 20 responses.

Estimated Time per Response: 40 hours.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 201(b), 214(e)(6), 303(r)

Frequency of Response: One-time reporting requirement.

Total Annual Burden: 800 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature of Extent of Confidentiality: If respondents submit information which respondents believe is confidential, respondents may request confidential treatment of such information pursuant to section 0.459 of the Commission's rules, 47 CFR 0.459.

Needs and Uses: Designation as an Eligible Telecommunications Carrier (ETC) makes a telecommunications carrier eligible to participate in the Universal Service Fund's high-cost program, which support the extension of telecommunications services to underserved rural communities. In the absence of this information collection, the Commission's ability to oversee the use of Federal universal service funds and to combat waste, fraud, and abuse in the use of Federal funds would be compromised. Section 54.202 of the Commission's rules requires carriers seeking designation from the Commission to submit an application that certifies that the carrier will comply with the service requirement applicable to the support that it receives, 47 CFR 54.202(a)(1)(i); applicants must submit a five year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area, with estimates of the area and population that will be served as a result of the improvements, § 54.202(a)(1)(ii); an applicant must demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations, § 54.202(a)(2); demonstrate that it will satisfy applicable consumer protection and service quality standards, § 54.202(a)(3). If the common carrier is seeking designation as an eligible telecommunications carrier under section 214(e)(6) for any part of Tribal lands shall provide a copy of its petition to the affected tribal government and tribal regulatory authority, as applicable, at the time it files its petition with the Federal Communications Commission. In addition, the Commission shall send any public notice seeking comment on any petition for designation as an eligible telecommunications carrier on Tribal lands, at the time it is released, the affected tribal government and tribal regulatory authority, as applicable, by the most expeditious means available, § 54.202(c).

OMB Control Number: 3060–1223.

Title: Payment Instructions from the Eligible Entity Seeking Reimbursement from the TV Broadcaster Relocation Fund.

Form Number: FCC Form 1876.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions and state, local or tribal government.

Number of Respondents and Responses: 1,000 respondents; 2,000 responses.

Estimated Time per Response: 3 hours.

Frequency of Response: One-time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in the Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96 (Spectrum Act) § 6403(b)(4)(A).

Total Annual Burden: 6,000 hours.

Total Annual Cost: No Cost.

Privacy Act Impact Assessment: This information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

Nature and Extent of Confidentiality: The information collection includes information identifying bank accounts and providing account and routing numbers to access those accounts. FCC considers that information to be records not routinely available for public inspection under 47 CFR 0.457, and exempt from disclosure under FOIA exemption 4 (5 U.S.C. 552(b)(4)).

Needs and Uses: This collection was approved under the emergency processing provision of the Paperwork Reduction Act (PRA), 5 CFR 1320.13. The Commission is now requesting OMB approval for this information collection for a full three year term. The Spectrum Act requires the Commission to reimburse broadcast television licensees for costs ''reasonably incurred'' in relocating to new channels assigned in the repacking process and Multichannel Video Programming Distributors (MVPDs) for costs reasonably incurred in order to continue to carry the signals of stations relocating to new channels as a result of the repacking process or a winning reverse auction bid.[1]

The Commission decided through notice-and-comment rulemaking that it will issue all eligible broadcasters and MVPDs an initial allocation of funds based on estimated costs, which will be available for draw down (from individual accounts in the U.S. Treasury) as the entities incur expenses, followed by a subsequent allocation to the extent necessary. The reason for allowing eligible entities to draw down funds as they incur expenses is to reduce the chance that entities will be unable to finance necessary relocation changes.[2]

The information collection for which we are requesting approval is necessary for eligible entities to instruct the Commission on how to pay the amounts the entities draw down, and for the entities to make certifications that reduce the risk of waste, fraud, abuse and improper payments.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–09891 Filed 5–15–17; 8:45 am]

BILLING CODE 6712–01–P

[1] Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96 (Spectrum Act) § 6403(b)(4)(A)(i), (ii).

[2] Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket No. 12–268, Report and Order, 29 FCC Rcd 6567 (2014) (''Incentive Auction R&O'') at 609.

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0816]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper perform ance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before June 15, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov*. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to

further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0816.

Title: Local Telephone Competition and Broadband Reporting (Report and Order, WC Docket No. 11–10, FCC 13–87).

Form Number: FCC Form 477.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, Not-for-profit institutions, and State, local or tribal government.

Number of Respondents and Responses: 2,331 respondents; 4,662 responses.

Estimated Time per Response: 355 hours (average).

Frequency of Response: Semi-annual reporting requirement.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. 4(i), 201, 218–220, 251–252, 271, 303(r), 332, and 403 of the Communications Act of 1934, as amended and section 706 of the Telecommunications Act of 1996, as amended, codified in section 1302 of the Broadband Data Improvement Act, 47 U.S.C. 1302.

Total Annual Burden: 1,655,010 hours.

Total Annual Cost: No Cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission will continue to allow respondents to certify on the submission interface that some subscribership data contained in that submission are privileged or confidential commercial or financial information and that disclosure of such information would likely cause substantial harm to the competitive position of the entity making the submission. If the Commission receives a request for, or proposes to disclose such information, the respondent would be required to show, pursuant to Commission rules for withholding from public inspection information submitted to the Commission, that the information in question is entitled to confidential treatment. We will retain our current policies and procedures regarding the protection of submitted FCC Form 477 data subject to confidential treatment, including the use of only non-company specific aggregates of subscribership data in our published reports. Most of the broadband deployment data collected on Form 477 is publicly available on the FCC's Web site at *https://www.fcc.gov/general/broadband-deployment-data-fcc-form-477*. However, mobile providers can request confidential treatment of their deployment data by spectrum band and some of the speed data associated with their mobile broadband deployment coverage areas.

Need and Uses: FCC Form 477 provides an understanding of the extent of broadband deployment, that facilitates the Commission's development of appropriate broadband policies, and enables the Commission to carry out its obligation under section 706 of the Telecommunications Act of 1996, as amended, to ''determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion.'' In addition, the information collected in Form 477 enhances the Commission's analysis and understanding of the extent of voice telephone services competition, which in turn supports the Commission's efforts to open all telecommunications markets to competition and to promote innovation and investment by all participants, including new entrants, as required by the Telecommunications Act of 1996.

The Commission staff uses the information to advise the Commission about the efficacy of its rules and policies adopted to implement the Telecommunications Act of 1996. The data are necessary to evaluate the status of local telecommunications competition and broadband deployment. The Commission uses the data to prepare reports that help inform consumers and policy makers at the federal and state level on the deployment and adoption of broadband services, as well as on developments related to competition in the voice telephone services market. The Commission also uses the data to support its analyses in a variety of rulemaking proceedings under the Communications Act, including those related to fulfilling its universal service mandate.

The Commission releases to the public the broadband deployment and mobile voice deployment data that it began collecting in 2014 as a result of the Order. This information is used by consumers, federal and state government agencies, analysts, and others to determine broadband service availability by provider, technology, and speed.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–09893 Filed 5–15–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0004]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before July 17, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of

1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0004.

Title: Sections 1.1307 and 1.1311, Guidelines for Evaluating the Environmental Effects of Radiofrequency Exposure.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions, and State, Local or Tribal government.

Number of Respondents and Responses: 284,332 Respondents; 284,332 Responses.

Estimated Time per Response: 1 hour–5 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this Information collection is contained in 47 U.S.C. Sections 154(i), 302, 303, 303(r), and 307.

Total Annual Burden: 58,865 hours.

Total Annual Costs: $5,449,750.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is a minimal exemption from the Freedom of Information Act (FOIA), *5 U.S.C. 552(b)(4),* and *47 CFR 0.459* of the Commission's rules, that is granted for trade secrets, which may be submitted to the Commission as part of the documentation of test results. The exemption is normally granted for a short time (weeks to months) for requests relating to routine authorizations and for a longer time for requests relating to experimental authorizations. No other assurances of confidentiality are provided to respondents.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) after this 60-day comment period in order to obtain the full three-year clearance from them.

This information collection is a result of responsibility placed on the FCC by the National Environmental Policy Act (NEPA) of 1969. NEPA requires that each federal agency evaluate the impact of ''major actions significantly affecting the quality of the human environment.'' It is the FCC's opinion that this is the most efficient and reasonable method of complying with NEPA with regard to the environmental issue of radiofrequency radiation from FCC-regulated transmitters.

The Commission requires applicants to submit limited information during the licensing and authorization process. In many services, the Commission simply requires licensees to provide reliable service to specific geographic areas, but does not require licensees to file site-specific information. It does not appear that the FCC's present licensing methods can provide public notification of site-specific information without imposing new and significant additional burden to the Commission's applicants. However, we note that applicants with the greatest potential to exceed the Commission's exposure limits are required to perform an environmental evaluation as part of the licensing and authorization process.

The Commission advises concerned members of the public, seeking site-specific information, to contact the FCC for the name and telephone number of the service providers in the concerned party's area. The Commission encourages all service providers to provide site-specific, technical information and environmental evaluation documentation upon public request. In addition, we note alternative sources of information may be state and local governments, which may collect some site-specific information as part of the zoning process.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–09894 Filed 5–15–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0704, 3060–1120]

Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before July 17, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by

the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0704.

Title: Sections 42.10, 42.11, 64.1900 and Section 254(g): Policies and Rules Concerning the Interstate, Interexchange Marketplace.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 700 respondents; 2,800 responses.

Estimated Time per Response: .50 hours–2 hours.

Frequency of Response: Annual reporting requirements, third party disclosure requirements and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in: Sections 1, 4(i), 10, 201–205, 215, 218–220, 226, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 160, 201–205, 215, 218–220, 226, and 254.

Total Annual Burden: 2,450 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact.

Nature and Extent of Confidentiality: The Commission is not requesting that the respondents submit confidential information to the Commission. If the Commission requests respondents to submit information which respondents believe is confidential, respondents may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this information collection after this 60-day comment period in order to obtain the full three-year clearance from the OMB. The four information collection requirements under this OMB Control Number are information disclosure requirements, Internet posting requirements, recordkeeping requirements, and annual certification requirements. These requirements are necessary to provide consumers ready access to information concerning the rates, terms, and conditions governing the provision of interstate, domestic, interexchange services offered by nondominant interexchange carriers (IXCs) in a detariffed and increasingly competitive environment. The information collected under the information disclosure requirement and the Internet posting requirement must be disclosed to the public to ensure that consumers have access to the information they need to select a telecommunications carrier and to bring to the Commission's attention to possible violations of the Communications Act without a specific public disclosure requirement. The information collected under the recordkeeping and certification requirements will be used by the Commission to ensure that affected interexchange carriers fulfill their obligations under the Communications Act, as amended.

OMB Control Number: 3060–1120.

Title: Service Quality Measure Plan for Interstate Special Access Quarterly Reporting Requirements.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 3 respondents; 12 responses.

Estimated Time per Response: 25 hours.

Frequency of Response: Quarterly reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151,152, 154(i), 154(j), 201–204, 214, 220(a), 251, 252, 271, 272, and 303(r).

Total Annual Burden: 300 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission anticipates that the Bell Operating Companies (BOCs) which are AT&T, CenturyLink, and Verizon, may request confidentiality protection for the special access performance information.

Needs and Uses: In 2007, the Commission established a framework to govern the provision of in-region, long-distance services that allows the BOCs to provide in-region, interstate, long distance services either directly or through affiliates that are neither section 272 separate affiliates nor rule 64.1903 affiliates, see Section 272 Sunset Order, FCC 07–159. Because the BOCs are no longer required to comply with the section 272 structural safeguards, the Commission established special access performance metrics reporting requirements, *i.e.,* ordering, provisioning, and repair and maintenance to ensure that the BOCs and their independent incumbent LEC affiliates do not engage in non-price discrimination in the provision of special access services to unaffiliated entities. The information gleaned from these performance metrics will provide the Commission and other interested parties with reasonable tools to monitor each BOC's performance in providing these special access services to itself and its competitors.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–09890 Filed 5–15–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1145]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated

collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before July 17, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email: *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the PRA, 44 U.S.C. 3501–3520, the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

Title: Structure and Practices of the Video Relay Service Program, CG Docket No. 10–51.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 10 respondents; 669 responses.

Estimated Time per Response: 6 minutes (0.1 hours) to 25 hours.

Frequency of Response: Annual, monthly, one-time, and semi-annually reporting requirements; Recordkeeping and Third Party Disclosure requirements.

Obligation to Respond: Required to obtain or retain benefit. The statutory authority for the information collection requirements is found at section 225 of the Communications Act, 47 U.S.C. 225. The law was enacted on July 26, 1990, as Title IV of the ADA, Public Law 101–336, 104 Stat. 327, 366–69.

Total Annual Burden: 1,841 hours. Total Annual Cost: $27,500.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information (PII) from individuals.

Privacy Impact Assessment: No impact(s).

Needs and Uses: On April 6, 2011, in document FCC 11–54, the Commission released a *Report and Order,* published at 76 FR 30841, May 27, 2011, adopting final rules designed to eliminate the waste, fraud and abuse that has plagued the VRS program and had threatened its ability to continue serving Americans who use it and its long-term viability. The *Report and Order* contains potential information collection requirements with respect to the following seven requirements, all of which were adopted to ensure the sustainability and integrity of the TRS program and the TRS Fund. Though the *Report and Order* emphasizes VRS, several of the requirements also apply to other forms of TRS.

(1) *Provider Certification Under Penalty of Perjury.* The Chief Executive Officer (CEO), Chief Financial Officer (CFO), or other senior executive of a TRS provider shall certify, under penalty of perjury, to: (a) Compliance with the Commission's rules; and (b) the accuracy of (1) minutes submitted to the Interstate TRS Fund (Fund) administrator for compensation and (2) cost and demand data submitted to the Fund administrator for the determination of compensation rates.

(2) *Requiring Providers to Submit Information about New and Existing Call Centers.* VRS providers shall: (a) Submit to the Commission and the TRS Fund administrator certain call center information, twice a year, on April 1st and October 1st; and (b) notify the Commission and the TRS Fund administrator at least 30 days prior to any change to their call centers' locations, including the opening, closing, or relocation of any center.

(3) *Data Filed with the Fund Administrator to Support Payment Claims.* VRS providers shall submit call data records (CDRs) and speed of answer compliance data to the Fund administrator.

(4) *Automated Call Data Collection.* TRS providers shall use an automated record keeping system to capture the CDRs.

(5) *Record Retention.* Internet-based TRS providers shall retain the CDRs that are used to support payment claims submitted to the Fund administrator for a minimum of five years, in an electronic format.

(6) *Third-party Agreements.* VRS providers shall: (a) Maintain copies of all third-party contracts or agreements and make them available to the Commission and the TRS Fund administrator upon request; and (b) describe all agreements in connection with marketing and outreach activities in their annual submissions to the TRS Fund administrator.

(7) *Whistleblower Protection.* TRS providers shall provide information about these TRS whistleblower protections to all employees and contractors, in writing.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–09892 Filed 5–15–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1157]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the

information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before July 17, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–1157.

Title: Formal Complaint Procedures, Preserving the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09–191 and 14–28, and WC Docket No. 07–52.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit entities; Not-for profit entities; State, local or tribal governments; Individuals or households.

Number of Respondents and Responses: 10 respondents; 15 responses.

Estimated Time per Response: 2–40 hours per response.

Frequency of Response: On occasion reporting requirement; Third-party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for the information collection requirements is contained in 47 U.S.C. 151, 152, 153, 154, 201, 218, 230, 251, 254, 256, 257, 301, 303, 304, 307, 309, 316, 332, 403, 503, 522, 536, 548, 1302. Interpret or apply S. Rep. No. 104–23, at 51 (1995).

Total Annual Burden: 239 hours.

Total Annual Cost: $40,127.

Privacy Act Impact Assessment: This information collection may affect individuals or households, and thus there may be impacts under the Privacy Act.

Nature and Extent of Confidentiality: Applicants may request that any information supplied be withheld from public inspection, as set forth in 47 CFR 8.16.

Needs and Uses: The rules adopted in the Open Internet Order established a formal complaint process to address open Internet disputes that cannot be resolved through other means, including the Commission's informal complaint system. This process permits anyone, including individual end users and edge providers, to file a claim alleging that another party has violated a rule, and asking the Commission to rule on the dispute.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–09888 Filed 5–15–17; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–1067]

Request for Comments on Food and Drug Administration Accreditation Scheme for Conformity Assessment Pilot Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA or the Agency), Center for Devices and Radiological Health (CDRH), is establishing a public docket to request comments related to the FDA Accreditation Scheme for Conformity Assessment (ASCA) Pilot Program. The purpose is to gain insight regarding the development and overall design/approach of the ASCA pilot program including program goals, pilot standards, design concepts, and overall program approach. The Agency is interested in gathering additional information to increase the efficiency of the ASCA Program.

DATES: Submit either electronic or written comments or information by June 30, 2017. Late, untimely filed comments will not be considered. Electronic comments must be submitted on or before June 30, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of June 30, 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.

ADDRESSES: 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–1067 for ''Request for Comments on FDA Accreditation Scheme for Conformity Assessment Pilot Program.'' 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: Scott Colburn, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5514, Silver Spring, MD 20993, 301–796–6287, *standards@cdrh.fda.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Voluntary consensus standards are technical standards developed among different parties including governments and standard setting organizations, which play an important role in establishing the safety and performance criteria for many aspects of medical device design and manufacturing. These standards help to support claims of safety and quality of technical information in premarket review. FDA has authority to recognize voluntary consensus standards for use in establishing safety and performance criteria for medical device design and manufacturing. Sponsors can include a ''Declaration of Conformity'' to attest to which consensus standards they used in their premarket applications to meet premarket requirements for their devices. However, the appropriate use of an FDA recognized consensus standard via a declaration of conformity has not been consistently applied by sponsors in submissions. Many standards are highly complex and require substantial specialized knowledge to interpret and apply correctly. This is a challenge for manufacturers and FDA alike. During the Medical Device User Fee Act reauthorization negotiations, FDA and Industry agreed to establish an FDA Accreditation Scheme for Conformity Assessment (ASCA) Program for recognizing accredited testing laboratories that evaluate medical devices according to certain FDA-recognized standards. This initiative will benefit sponsors of submissions who can have the tests conducted at recognized accredited test labs and submit to FDA a determination from the test laboratory that their device conforms to the standards tested. FDA intends to rely on the results from the recognized accredited Test Laboratory for the purpose of premarket review without the need to address further questions related to standards conformance. Once developed, the ASCA will ease a regulatory burden on industry by allowing them to use recognized accredited test laboratories to ensure accurate conformance with the consensus standard.

FDA is requesting comments to gain insight regarding the development and overall design/approach of the ASCA pilot program, including program goals, pilot standards, design concepts, and overall program approach. FDA is not endorsing any of the models proposed at this time. The Agency is open to considering other options or models for the ASCA pilot program and invites comments on any additional options or suggestions that may assist FDA in its decision making.

FDA is also considering using private sector accreditation bodies to increase the efficiency of the ASCA Program. As a result, FDA is considering a number of different models to serve this purpose. FDA is not endorsing any of these models at this time and is open to considering other options or models for the ASCA pilot program.

II. Request for Comments

The Agency invites comments on the ASCA pilot program, in general, and on the following questions, in particular. Each individual question is numbered; please clearly delineate which questions each of your comments are addressing in the written response.

1. For the ASCA pilot program to achieve success,

a. What FDA recognized consensus standards available at *http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfStandards/search.cfm* need to be included to successfully get a sponsor/manufacturer to be willing to participate in the program?

b. What impact/efficiencies would you like to see from the pilot program?

c. What does success of the pilot program look like?

d. Outline any challenges in the use of recognized voluntary consensus standards (*e.g.,* acceptance of test results from accredited test labs, standardized test reports, consistent test methods, well-defined standards) that FDA should focus on while developing the ASCA pilot?

2. To help reduce duplicative efforts, overlap, or conflict with other conformity assessment schemes, what benefits/concerns of the ASCA work to align with other existing schemes that utilize the same consensus standards?

3. What are the benefits, weaknesses, incentives/disincentives associated with a model that uses one or more private sector accreditation bodies to accredit testing laboratories to the appropriate scope of accreditation for ISO/IEC 17025 (General requirements for the

competence of testing and calibration laboratories) or ISO 15189:2012—Medical laboratories—Requirements for quality and competence plus FDA ASCA program specific requirements? FDA would still retain the authority to recognize, deny, amend, or revoke recognition of testing laboratories and maintain the official list of recognized testing laboratories.

4. Where no appropriate accreditation bodies step forward to serve the needs for the specific areas within the ASCA program, FDA is considering a model under which it will serve as the accreditation body. What are the benefits, weaknesses, incentives/disincentives associated with this approach, and how do you compare this approach to the private sector approach?

5. Describe your familiarity with accreditation to ISO/IEC 17025 (General requirements for testing and calibration laboratories) or ISO 15189:2012—Medical laboratories—Requirements for quality and competence? If accredited, what is the scope of accreditation?

6. Do you utilize another management system other than ISO/IEC 17025 or ISO 15189:2012—Medical laboratories—Requirements for quality and competence? If so, what management system has been implemented?

7. Are there specific FDA recognized consensus standards available at *http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfStandards/search.cfm* or testing capabilities related to the medical devices sector that you perform?

8. For more complex standards, such as those that have normative references or include references to management systems (*e.g.,* Risk Management, Quality Management, Cybersecurity, Infection Control), are there specific assessment techniques that should be included?

9. Would you consider participating in the ASCA Pilot Program? If so, what scope of testing would you consider?

10. Generally, are there any other comments that you would like to provide regarding the development of the ASCA pilot program? Do you have recommendations for other alternatives to consider?

Dated: May 10, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–09850 Filed 5–15–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Solicitation of Nominations for Appointment to the Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The U.S. Department of Health and Human Services (HHS) is soliciting nominations of individuals who are interested in being considered for appointment to the Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria (Advisory Council) as a non-voting liaison representative member from an organization and/or interest group. Nominations from qualified individuals who wish to be considered for appointment to this member category of the Advisory Council are currently being accepted.

DATES: Nominations must be received no later than 5:00 p.m. ET on June 30, 2017.

ADDRESSES: Information on how to submit a nomination is on the Advisory Council Web site, *http://www.hhs.gov/ash/carb/.*

FOR FURTHER INFORMATION CONTACT: MacKenzie Robertson, Committee Management Officer, Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria, Office of the Assistant Secretary for Health, U.S. Department of Health and Human Services, Room 715H, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201. Phone: (202) 690–5566; email: *CARB@hhs.gov.* The Advisory Council charter may be accessed online at *http://www.hhs.gov/ash/carb/.* The charter includes detailed information about the Advisory Council's purpose, function, and structure.

SUPPLEMENTARY INFORMATION: Under Executive Order 13676, dated September 18, 2014, authority was given to the Secretary of HHS to establish the Advisory Council, in consultation with the Secretaries of Defense and Agriculture. Activities of the Advisory Council are governed by the provisions of Public Law 92–463, as amended (5 U.S.C. App.), which sets forth standards for the formation and use of federal advisory committees. The Advisory Council will provide advice, information, and recommendations to the Secretary of HHS regarding programs and policies intended to preserve the effectiveness of antibiotics by optimizing their use; advance research to develop improved methods for combating antibiotic resistance and conducting antibiotic stewardship; strengthen surveillance of antibiotic-resistant bacterial infections; prevent the transmission of antibiotic-resistant bacterial infections; advance the development of rapid point-of-care and agricultural diagnostics; further research on new treatments for bacterial infections; develop alternatives to antibiotics for agricultural purposes; maximize the dissemination of up-to-date information on the appropriate and proper use of antibiotics to the general public and human and animal healthcare providers; and improve international coordination of efforts to combat antibiotic resistance.

The Advisory Council is authorized to consist of not more than 30 members, including the voting and non-voting members and the Chair and Vice Chair. The current composition of the Advisory Council consists of 15 voting members, including the Chair and Vice Chair, five non-voting liaison representative members, and 10 non-voting *ex-officio* members. The non-voting liaison representatives are selected from organizations and/or interest groups that have involvement in the development, testing, licensing, production, procurement, distribution, and/or use of antibiotics and/or antibiotic research. Organizations are invited to participate as non-voting liaison representatives as it is deemed necessary by the Secretary or designee to accomplish the established mission of the Advisory Council.

This announcement is to solicit nominations to fill positions that are scheduled to be vacated during the 2017 calendar year in the non-voting liaison representative member category. Non-voting liaison representative members are appointed to serve two-year terms. Individuals from the following sectors are being sought to serve a non-voting liaison representatives: (1) Professional organizations representing infectious disease, epidemiology, infection control, physicians, nurses, pharmacists, microbiologists, and veterinarians; (2) public health organizations representing laboratories, health officials, epidemiologists (state/territorial, county, or local); (3) organizations advocating for patients and consumers; (4) organizations representing state departments of agriculture; (5) hospitals; (6) foundations with an interest in antibiotic resistance and promoting antibiotic stewardship; (7) pharmaceutical industry—animal and

human health; (8) food producers—livestock, poultry, and seafood; (9) *in vitro* diagnostics; (10) food retailers; (11) food processors; (12) animal feed producers; and (13) farm bio-security.

Individuals who are appointed to serve as non-voting liaison representative members may be allowed to receive per diem and reimbursement for any applicable expenses for travel that is performed to attend meetings of the Advisory Council in accordance with federal travel regulations. The Advisory Council meets, at a minimum, two times per fiscal year depending on the availability of funds. Meetings are open to the public, except as determined otherwise by the Secretary or other official to whom the authority has been delegated in accordance with guidelines under the Government in the Sunshine Act, 5 U.S.C. 552b(c).

Nominations, including self-nominations, of individuals who represent organizations that have the specified expertise and knowledge sought will be considered for appointment as non-voting liaison representative members of the Advisory Council. Every effort will be made to ensure that the Advisory Council is a diverse group of individuals with representation from various geographic locations, racial and ethnic minorities, all genders, and persons living with disabilities. Detailed information on what is required in a nomination package and how to submit one is on the Advisory Council Web site, *http://www.hhs.gov/ash/carb/.*

Dated: April 25, 2017.

Jewel Mullen,

Acting Director, National Vaccine Program Office.

[FR Doc. 2017–09778 Filed 5–15–17; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Advisory Committee on Minority Health

AGENCY: Office of Minority Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice of meeting.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that the Advisory Committee on Minority Health (ACMH) will hold a meeting conducted as a telephone conference call. This call will be open to the public. Preregistration is required for both public participation and comment. Any individual who wishes to participate in the call should email *OMH-ACMH@hhs.gov* by May 30, 2017. Instructions regarding participating in the call and how to provide verbal public comments will be given at the time of preregistration.

Information about the meeting is available from the designated contact and will be posted on the Web site for the Office of Minority Health (OMH), *www.minorityhealth.hhs.gov.* Information about ACMH activities can be found on the OMH Web site under the heading *About OMH.*

DATES: The conference call will be held on June 1, 2017, 12:30 p.m.–2:30 p.m. ET.

ADDRESSES: Instructions regarding participating in the call will be given at the time of preregistration.

FOR FURTHER INFORMATION CONTACT: Dr. Minh Wendt, Designated Federal Officer, Advisory Committee on Minority Health, Office of Minority Health, Department of Health and Human Services, Tower Building, 1101 Wootton Parkway, Suite 600, Rockville, Maryland 20852. Phone: 240–453–8222; fax: 240–453–8223; email *OMH-ACMH@hhs.gov.*

SUPPLEMENTARY INFORMATION: In accordance with Public Law 105–392, the ACMH was established to provide advice to the Deputy Assistant Secretary for Minority Health on improving the health of each racial and ethnic minority group and on the development of goals and specific program activities of the OMH.

The topics to be discussed during the teleconference include creating a work plan for developing recommendations related to opioid usage and health disparities. The recommendations will be given to the Deputy Assistant Secretary for Minority Health.

This call will be limited to 125 participants. The OMH will make every effort to accommodate persons with special needs. Individuals who have special needs for which special accommodations may be required should contact Professional and Scientific Associates at (703) 234–1700 and reference this meeting. Requests for special accommodations should be made at least ten (10) business days prior to the meeting.

Members of the public will have an opportunity to provide comments at the meeting. Public comments will be limited to two minutes per speaker during the time allotted. Individuals who would like to submit written statements should email, mail, or fax their comments to the designated contact at least seven (7) business days prior to the meeting.

Any members of the public who wish to have electronic or printed material distributed to ACMH members should email *OMH-ACMH@hhs.gov* or mail their materials to the Designated Federal Officer, ACMH, Tower Building, 1101 Wootton Parkway, Suite 600, Rockville, Maryland 20852, prior to close of business on May 25, 2017.

Dated: May 11, 2017.

Minh Wendt,

Designated Federal Officer, Advisory Committee on Minority Health.

[FR Doc. 2017–09862 Filed 5–15–17; 8:45 am]

BILLING CODE 4150–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Solicitation of Public Comments on the Draft Federal Pain Research Strategy

National Institute of Neurological Disorders and Stroke, Interagency Pain Research Coordinating Committee Solicitation for Public Comments on the Draft Federal Pain Research Strategy

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of a meeting hosted by the National Institutes of Health to present the Draft Federal Pain Research Strategy and to solicit public comments on this document. The meeting will be open to the public and videocast.

Dates: June 1, 2017.

Time: 12:45 p.m. to 3:30 p.m. *Eastern Time*.

Agenda: Invited speakers will present and discuss research recommendations developed for the Draft Federal Pain Research Strategy. Attendees will have the opportunity to pose questions on site or on-line. Information to submit comments in advance and during the meeting will be posted on May 25th, 2017, at *https://iprcc.nih.gov/.*

Summary: The Federal Pain Research Strategy is an effort of the Interagency Pain Research Coordinating Committee (IPRCC) and the NINDS Office of Pain Policy to oversee development of a long-term strategic plan for pain research. A diverse and balanced group of scientific experts, patient advocates, and federal representatives identified and prioritized research recommendations as a basis for a long-term strategic plan to coordinate and advance the federal research agenda. The key areas of prevention of acute and chronic pain, acute pain and acute pain management, the transition from acute to chronic

pain, chronic pain and chronic pain management, and disparities in pain and pain care will provide a framework for development of the strategy upon which important cross-cutting elements will be addressed.

Meeting Location: William H. Natcher Conference Center, Auditorium, National Institutes of Health, Bethesda, MD 20892.

Webcast Live: https://videocast.nih.gov/.

Contact Person: Linda L. Porter, Ph.D., Director, Office of Pain Policy, Officer of the Director, National Institute of Neurological Disorders and Stroke, NIH, 31 Center Drive, Room 8A31, Bethesda, MD 20892, Phone: (301) 451–4460, Email: *Linda.Porter@nih.gov.*

The meeting is open to the public and is free. More information can be found at *https://iprcc.nih.gov/.*

Individuals who participate in person or by videocast and who need special assistance, such as captioning of the call or other reasonable accommodations, should submit a request to the Contact Person listed on this notice at least seven days prior to the meeting.

Information about the IPRCC and the Federal Pain Research Strategy is available on the Web site at *https://iprcc.nih.gov/.*

Dated: May 3, 2017.

Walter J. Koroshetz,

Director, National Institute of Neurological Disorders and Stroke, National Institutes of Health.

[FR Doc. 2017–09860 Filed 5–15–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Charter Renewal

In accordance with Title 41 of the U.S. Code of Federal Regulations, Section 102–3.65(a), notice is hereby given that the Charter for the Frederick National Laboratory Advisory Committee to the National Cancer Institute (FNLAC) was renewed for an additional two-year period on March 30, 2017.

It is determined that the FNLAC is in the public interest in connection with the performance of duties imposed on the Department of Health and Human Services by law, and that these duties can best be performed through the advice and counsel of this group.

Inquiries may be directed to Jennifer Spaeth, Director, Office of Federal Advisory Committee Policy, Office of the Director, National Institutes of Health, 6701 Democracy Boulevard, Suite 1000, Bethesda, Maryland 20892 (Mail code 4875), Telephone (301) 496–2123, or *spaethj@od.nih.gov.*

Dated: May 10, 2017.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–09794 Filed 5–15–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Clinical Oncology Study Section.

Date: June 12, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton La Jolla Hotel, 3299 Holiday Court, La Jolla, CA 92037.

Contact Person: Malaya Chatterjee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6192, MSC 7804, Bethesda, MD 20892, 301–806–2515, *chatterm@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Language and Communication Study Section.

Date: June 12–13, 2017.

Time: 8:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Wind Cowles, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, Bethesda, MD 20892, 301–437–7872, *cowleshw@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Aging Systems and Geriatrics Study Section.

Date: June 12–13, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Inese Z. Beitins, M.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7892, Bethesda, MD 20892, 301–435–1034, *beitinsi@csr.nih.gov.*

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Community-Level Health Promotion Study Section.

Date: June 12–13, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Wardman Park Washington DC Hotel, 2660 Woodley Road NW., Washington, DC 20008.

Contact Person: Ping Wu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, Bethesda, MD 20892, 301–451–8428, *wup4@csr.nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Basic Mechanisms of Cancer Therapeutics Study Section.

Date: June 12–13, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.

Contact Person: Lambratu Rahman Sesay, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, 301–451–3493, *rahman-sesayl@csr.nih.gov.*

Name of Committee: Oncology 1—Basic Translational Integrated Review Group; Cancer Genetics Study Section.

Date: June 12–13, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Juraj Bies, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, 301–435–1256, *biesj@mail.nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Drug Discovery and Molecular Pharmacology Study Section.

Date: June 12–13, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Dupont Circle Hotel, 1500 New Hampshire Avenue NW., Washington, DC 20036.

Contact Person: Jeffrey Smiley, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301–594–7945, *smileyja@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Arthritis, Connective Tissue and Skin Study Section.

Date: June 12–13, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Long Beach and Executive Center, 701 West Ocean Boulevard, Long Beach, CA 90831.

Contact Person: Alexey Belkin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, Bethesda, MD 20817, 301–435–1786, *alexey.belkin@nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Clinical Research and Field Studies of Infectious Diseases Study Section.

Date: June 12–13, 2017.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Cambria Hotel and Suites, 1 Helen Heneghan Way, Rockville, MD 20850.

Contact Person: Soheyla Saadi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3211, MSC 7808, Bethesda, MD 20892, 301–435–0903, *saadisoh@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 10, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–09780 Filed 5–15–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Invention; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government.

FOR FURTHER INFORMATION CONTACT: Licensing information may be obtained by emailing the indicated licensing contact at the National Heart, Lung, and Blood, Office of Technology Transfer and Development Office of Technology Transfer, 31 Center Drive Room 4A29, MSC 2479, Bethesda, MD 20892–2479; telephone: 301–402–5579. A signed Confidential Disclosure Agreement may be required to receive any unpublished information.

SUPPLEMENTARY INFORMATION: The following inventions are available for licensing in accordance with 35 U.S.C. 209 and 37 CFR part 404 to achieve expeditious commercialization of results of federally-funded research and development. Technology description follows.

Efficient mRNA-Based Genetic Engineering of Human NK Cells With High-Affinity CD16 and CCR7

Description of Technology: A highly efficient method to genetically modify natural killer (NK) cells to induce expression of high affinity CD16 (HA–CD16) through mRNA electroporation, to potentiate NK cell-mediated antibody-dependent cellular cytotoxicity (ADCC). ADCC is mediated by $CD16^{+}$ NK cells following adoptive NK cell transfer, but most humans express CD16 which has a relatively low affinity for IgG1 antibodies. However, a single nucleotide polymorphism (SNP rs396991) in the CD16 gene, resulting in an amino acid substitution at position 158 (F158V), is associated with substantially higher affinity and superior NK cell-mediated ADCC than those with the 158F genotype. This HA–CD16–158V polymorphism has also been linked to enhanced ADCC capacity in vivo. The nearly 100% efficiency of our method resulted in: (a) Sustained surface expression of transgenes at high levels for up to 4 days without compromising NK cell cytotoxicity and viability; and (b) augmented ADCC against Daratumumab coated multiple myeloma cells by ex vivo expanded NK cells electroporated with mRNA coding for HA–CD16. This system is GMP compliant and has been used previously in FDA approved clinical trials.

Potential Commercial Applications: Infusion of a large number of highly cytotoxic autologous ex vivo expanded NK cells expressing high-affinity CD16 into patients, to induce a more profound anti-malignancy response to specific monoclonal antibodies, including: multiple myeloma (Daratumumab); lymphoma (Rituximab); breast cancer (Trastuzumab); and colon cancer (Cetuximab).

Development Stage: Early-stage; In vitro data available.

Inventors: Richard W. Childs and Mattias Carlsten (NHLBI).

Publications:

(1) Carlsten M, Levy E, Karambelkar A, Li L, Reger R, Berg M, Peshwa MV and Childs RW (2016) Efficient mRNA-Based Genetic Engineering of Human NK Cells with High-Affinity CD16 and CCR7 Augments Rituximab-Induced ADCC against Lymphoma and Targets NK Cell Migration toward the Lymph Node-Associated Chemokine CCL19. Front. Immunol. 7:105. doi: 10.3389/fimmu.2016.00105.

(2) Carlsten M and Childs RW (2015) Genetic manipulation of NK cells for cancer immunotherapy: techniques and clinical implications. Front. Immunol. 6:266. doi: 10.3389/fimmu.2015.00266.

Intellectual Property: NIH Reference No. E–036–2015/0,1—US Application No. 62/079,975, filed 14 Nov 2014; and PCT Application No. PCT/US2015/060646, filed 13 Nov 2015.

Licensing Contact: Cristina Thalhammer-Reyero, Ph.D., M.B.A.; 301–435–4507; *thalhamc@mail.nih.gov.*

Dated: May 4, 2017.

Cristina Thalhammer-Reyero,

Senior Licensing and Patenting Manager, Office of Technology Transfer and Development, National Heart, Lung, and Blood Institute.

[FR Doc. 2017–09791 Filed 5–15–17; 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; NIH Support for Conferences and Scientific Meeting—DRI (01).

Date: June 19, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Plaza, 533J, 7201 Wisconsin Avenue, Suite 533, Bethesda, MD 20814 (Teleconference).

Contact Person: Deborah Ismond, Ph.D., Scientific Review Officer, Division of Scientific Programs, National Institute on Minority Health, and Health Disparities, National Institutes of Health, 7201 Wisconsin Ave., Suite 525, Bethesda, MD 20814, (301) 594–2704, *ismonddr@mail.nih.gov/.*

Dated: May 10, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–09786 Filed 5–15–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Invention; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government.

FOR FURTHER INFORMATION CONTACT: Licensing information may be obtained by emailing the indicated licensing contact at the National Heart, Lung, and Blood, Office of Technology Transfer and Development Office of Technology Transfer, 31 Center Drive Room 4A29, MSC 2479, Bethesda, MD 20892–2479; telephone: 301–402–5579. A signed Confidential Disclosure Agreement may be required to receive any unpublished information.

SUPPLEMENTARY INFORMATION: The following inventions are available for licensing in accordance with 35 U.S.C. 209 and 37 CFR part 404 to achieve expeditious commercialization of results of federally-funded research and development. Technology description follows.

T-Cells Transduced With HLA A11 Restricted CT–RCC HERV–E Reactive TCR To Treat Patients With ccRCC

Description of Technology: We isolated an allogeneic T cell clone from a clear cell renal cell carcinoma (ccRCC) HLA–A11 patient who showed prolonged tumor regression after an allogeneic transplant. This clone was found to have tumor specific cytotoxicity, killing patient's tumor cells in vitro. We found that antigen recognized by this clone is an HLA–A11 restricted peptide (named CT–RCC–1) and it is encoded by a novel human endogenous retrovirus-E (named CT–RCC HERV–E) whose expression was discovered to be restricted to ccRCC, but not observed in normal tissues or other tumor types. We observed that more than 80% of ccRCC tumors express CT–RCC HERV–E provirus, which makes it an ideal target for T cell based immunotherapy. We have sequenced and cloned the genes for a T cell receptor (TCR) that specifically recognizes an HLA–A11 restricted CT–RCC–1 antigen. We then created a retroviral vector encoding this TCR as well as a truncated CD34 protein lacking the intracellular domain, which can be used to facilitate the isolation of T-cells transduced with this TCR. Phase I/II clinical trials are currently being planned in patients with metastatic ccRCC using normal patient's T-cells transduced with this vector.

Potential Commercial Applications: The vector can be used to transduce and expand normal T cells from HLA–A11 patients with metastatic ccRCC with the TCR recognizing HLA–A11-restricted CT–RCC HERV–E antigen that specifically expressed on clear cell type of kidney cancer. The transduced cytotoxic T cells can then be administered to subjects to treat or inhibit metastatic kidney cancer. Kidney cancer is responsible for approximately 12,000 deaths every year in the United States alone. As with most cancer, when detected at early stages, surgical intervention is highly effective. Despite progress in treating kidney cancer with IL–2 and inhibitors of immune checkpoints, metastatic ccRCC is generally lethal, with mean survival being less than a year. Patients with melanoma and other malignancies can now benefit from adoptive T cell transfer. One of the limitations of this approach for metastatic kidney cancer is a lack of identified tumor restricted antigens for this tumor. We show that the CT–RCC HERV–E is expressed in most ccRCC tumors but not in normal tissues which makes the antigens encoded by this provirus ideal targets for T cell-based immunotherapy of ccRCC.

Development Stage: Early-stage; In vitro data available.

Inventors: Richard W. Childs and Elena Cherkasova (NHLBI), Michael Nishimura (Loyola University Chicago).

Publications:

1. Takahashi Y. et al. 2008. Regression of kidney cancer following allogeneic stem-cell transplantation associated with T-cells recognizing a HERV–E antigen. J. Clin. Invest. 118:1099–109.

2. Cherkasova E. et al. 2011. Inactivation of the von Hippel-Lindau tumor suppressor leads to selective expression of a human endogenous retrovirus in kidney cancer. Oncogene 30:4697–706.

3. Cherkasova E. et al. 2013. Endogenous retroviruses as targets for antitumor immunity in renal cell cancer and other tumors. Front. Oncol. 3:243–247.

4. Cherkasova E. et al. 2016. Detection of a HERV–E envelope with selective expression in clear cell kidney cancer. Cancer Res. 76:2177–2185.

Intellectual Property: NIH Reference No. E–120–2016/0—US Application No. 62/357,265, filed June 30, 2016.

Licensing Contact: Cristina Thalhammer-Reyero, Ph.D., M.B.A.; 301–435–4507; *thalhamc@mail.nih.gov.*

Dated: May 2, 2017.

Cristina Thalhammer-Reyero,

Senior Licensing and Patenting Manager, Office of Technology Transfer and Development, National Heart, Lung, and Blood Institute.

[FR Doc. 2017–09792 Filed 5–15–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; AMSC Review Conflict Meeting.

Date: June 8, 2017.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: 6701 Democracy Boulevard, Conference Room 803, Bethesda, MD 20892.

Contact Person: Yin Liu, Ph.D., M.D., Scientific Review Officer, Scientific Review Branch, NIH/National Institute of Arthritis, Musculoskeletal and Skin Diseases, 6701 Democracy Boulevard, Suite 824, Bethesda, MD 20892, 301–451–4838, *yin.liu@.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: May 9, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–09785 Filed 5–15–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious 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 the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Microbiology, Infectious Diseases and AIDS Initial Review Group; Microbiology and Infectious Diseases B Subcommittee MID–B June 2017.

Date: June 14–15, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bahia Resort Hotel, 998 West Mission Bay Drive, San Diego, CA 92109.

Contact Person: Ellen S. Buczko, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–451–2676, *ebuczko1@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 10, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–09784 Filed 5–15–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Heart, Lung, and Blood Initial Review Group; NHLBI Mentored Transition to Independence Review Committee.

Date: June 8–9, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Giuseppe Pintucci, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7192, Bethesda, MD 20892, 301–827–7969, *Pintuccig@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 10, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–09783 Filed 5–15–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Bioengineering, Technology and Surgical Sciences.

Date: June 5, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102.

Contact Person: Guo Feng Xu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5122, MSC 7854, Bethesda, MD 20892, 301–237–9870, *xuguofen@csr.nih.gov.*

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Medical Imaging Study Section.

Date: June 7–8, 2017.

Time: 6:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites by Hilton Denver Intl Airport, 7001 Yampa Street, Denver, CO 80249.

Contact Person: Xiang-Ning Li, M.D., Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7854, Bethesda, MD 20892, 301–435–1744, *lixiang@csr.nih.gov.*

Name of Committee: Oncology 1—Basic Translational Integrated Review Group; Tumor Cell Biology Study Section.

Date: June 8–9, 2017.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: Charles Morrow, M.D., Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6202, MSC 7804, Bethesda, MD 20892, 301–408–9850, *morrowcs@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Interventions to Prevent and Treat Addictions.

Date: June 8, 2017.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: JW Marriott New Orleans, 614 Canal Street, New Orleans, LA 70130.

Contact Person: Kristen Prentice, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3112, MSC 7808, Bethesda, MD 20892, 301–496–0726, *prenticekj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 10, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–09781 Filed 5–15–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; CTSA Review.

Date: June 21, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, Rooms: Independence I & II, 6711 Democracy Blvd., Bethesda, MD 20892.

Contact Person: Carol Lambert, Ph.D., Acting Director, Office of Scientific Review, National Center for Advancing Translational Sciences (NCATS), National Institutes of Health, 6701 Democracy Blvd., Democracy 1, Room 1076, Bethesda, MD 20892, 301–435–0814, *lambert@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: May 10, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–09782 Filed 5–15–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Nursing Research Initial Review Group.

Date: June 8, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Weiqun Li, M.D., Scientific Review Officer, National Institute of Nursing Research National Institutes of Health, 6701 Democracy Boulevard, Suite 710, Bethesda, MD 20892, (301) 594–5966, *wli@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: May 9, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–09787 Filed 5–15–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Request for Comments on National Institute of Dental and Craniofacial Research's 2030 Strategic Visioning Initiative

SUMMARY: The National Institute of Dental and Craniofacial Research (NIDCR) is pleased to launch NIDCR 2030, a strategic visioning initiative designed to advance dental, oral, and craniofacial research over the next 15 years.

The purpose of this Request for Comments (RFC) is to seek input on how best to ensure that dental, oral, and craniofacial health and disease are understood in the context of the whole body, and that research transforms how we promote health, treat disease, and overcome health disparities.

Visit the NIDCR 2030 Web site to submit your research ideas and vote and comment on the ideas of others: *https://nidcr2030.ideascale.com/.* We'll use your ideas and comments to plan future workshops and identify themes for potential funding opportunities.

DATES: The Idea submission period ends May 19, 2017. All votes must be entered by June 2, 2017.

ADDRESSES: Ideas, comments, and votes can be submitted to *https://nidcr2030.ideascale.com/.*

FOR FURTHER INFORMATION CONTACT: Questions about this request for comments should be directed to Dr. Morgan O'Hayre, National Institute of Dental and Craniofacial Research, National Institutes of Health, Building 31, Room 2C39, Bethesda, MD 20892, *ohayrem@mail.nih.gov,* 301–594–4862. You may also contact the NIDCR 2030 Team, at *nidcr2030@nidcr.nih.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Institute of Dental and Craniofacial Research is the nation's leading supporter of dental, oral, and craniofacial research. In 2030, we imagine a world where dental, oral, and craniofacial health and disease are understood in the context of the whole body, and research transforms how we promote health, treat disease, and overcome health disparities, so all people have the opportunity to lead healthy lives. To achieve what we've imagined, we need you. Please join us in a discussion about what it will take to reach our visionary goals in five key areas:

- Integrating oral health and overall health
- Developing precision prevention, treatment, and public health interventions
- Taking advantage of the body's ability to heal itself through autotherapies
- Using the mouth as a diagnostic and treatment portal
- Encouraging workforce diversity

Review Process

Idea submissions and comments will be reviewed by subject matter experts, including intramural and extramural NIDCR staff, based on five criteria:

- Innovation
- Impact on science, health, and health disparities
- Alignment with NIDCR mission
- Feasibility
- Number of votes

Outcomes

Idea submissions and comments will be used to advance the goals of NIDCR 2030 and identify themes for potential funding opportunities. No financial rewards will be given for idea submissions.

Dated: May 2, 2017.

John W. Kusiak,

Acting Director, National Institute of Dental and Craniofacial Research.

[FR Doc. 2017–09859 Filed 5–15–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0095]

Agency Information Collection Activities: Notice of Appeal or Motion, Form I–290B; Revision of a Currently Approved Collection

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until July 17, 2017.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0095 in the subject box, the agency name and Docket ID USCIS–2008–0027. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal Web site at *http://www.regulations.gov* under e-Docket ID number USCIS–2008–0027; or

(2) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, Telephone number (202) 272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2008–0027 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies 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 agency's 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:* Revision of a Currently Approved Collection; Extension, Without Change, of a Currently Approved Collection; Reinstatement.

(2) *Title of the Form/Collection:* Notice of Appeal or Motion.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–290B; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households, employers, private entities and organizations, businesses, non-profit institutions/organizations, and attorneys. Form I–290B is necessary in order for USCIS to make a determination that the appeal or motion to reopen or reconsider meets the eligibility requirements, and for USCIS to adjudicate the merits of the appeal or motion to reopen or reconsider.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Form I–290B is 24,878 and the estimated hour burden per response is 1.5 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 37,317 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $3,141,093.

Dated: May 10, 2017.

Samantha Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2017–09875 Filed 5–15–17; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6003–N–05]

60-Day Notice of Proposed Information Collection: Reporting for HUD Research, Evaluation, and Demonstration Cooperative Agreements

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice: Paperwork Reduction Act.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comments from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* July 17, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone (202) 402–5534 (this is not a toll-free number) or email at *Anna.P.Guido@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone (202) 402–5535 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Reporting for HUD Research, Evaluation, and Demonstration Cooperative Agreements.

OMB Approval Number: 2528–0299.

Description of the need for the information and proposed use: PD&R intends to establish cooperative agreements with qualified for-profit and nonprofit research organizations and universities to conduct research, demonstrations, and data analysis. PD&R will issue a Notice of Funding Availability (NOFA) describing the cooperative research program. Management of PD&R cooperative agreements for research and demonstrations will require periodic reporting of progress. This information collection will be limited to recipients of cooperative agreements.

Type of Request: (*i.e.* new, revision or extension of currently approved collection): Renewal.

Agency Form Numbers: No agency forms will be used. The quarterly reporting will be accomplished through a short narrative report.

Respondents: HUD anticipates that approximately 8–10 organizations will be selected for cooperative agreement award. Recipients of the cooperative agreements will be the sole members of the affected public for the reporting requirement.

Members of Affected Public: For-profit and nonprofit organizations that apply to participate under the cooperative research agreements NOFA.

Estimated Number of Respondents frequency of response, and hours of response: HUD anticipates that a maximum of 10 organizations will receive cooperative agreements. Quarterly progress reporting, other mandatory federal reporting and recordkeeping requirements are estimated at 36 labor hours annually for each awardee during the life of the agreement. The total estimated burden for progress reporting by all participants is 360 hours annually.

Estimated Total Annual Burden Hours: 360.

Estimated Total Annual Cost: The only cost to the respondents is that of their time.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly Cost per response	Cost
Quarterly Reports	10	4	40	4	160	$0	$0
Other Reports	10	1	10	4	40	0	0
Recordkeeping	10	1	10	16	160	0	0
Total					360		0

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Dated: May 8, 2017.

Matthew E. Ammon,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 2017–09867 Filed 5–15–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6003–N–03]

60-Day Notice of Proposed Information Collection: Resident Opportunity and Self-Sufficiency Service Coordinator (ROSS–SC) Program Evaluation

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comments from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* July 17, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone (202) 402–5534 (this is not a toll-free number) or email at *Anna.P.Guido@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone (202) 402–5535 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Resident Opportunity and Self-Sufficiency Service Coordinator (ROSS–SC) Program Evaluation.

OMB Approval Number: Pending.

Type of Request: New.

Form Number: No forms.

Description of the need for the information and proposed use: HUD is conducting this study under contract with the Urban Institute and its subcontractors (EJP Consulting). The project is an evaluation of the Resident Opportunity and Self-Sufficiency Service Coordinator (ROSS–SC) program operated by grantees across the country. It will include a national web-based survey and in-person site visits to select grantees. Since 2008, the ROSS–SC program has provided information and referral for families, elderly, and disabled residents in public housing by funding local Service Coordinators to link residents to resources that they need to become independent and self-sufficient. The purpose of the program is to leverage existing local public and private services to increase income, reduce or eliminate welfare assistance, work towards economic independence and housing self-sufficiency, and improve living conditions and ability to age in-place for elderly and disabled residents. To date, there has been no HUD-funded evaluation of this program. A GAO study across several HUD self-sufficiency programs published in 2013 found that the ROSS–SC program lacked enough quality data on participation and outcomes ''to determine whether it was meeting goals of the effective and efficient use of resources'' in improving resident self-sufficiency and independence. They recommended improving the data reporting process and developing a strategy for regularly analyzing ROSS–SC participation and outcome data. This project helps implement GAO's recommendations by: (1) Assessing improvements in program processes and reporting since changes were made to the program's logic model in FY 2014; (2) examining the breadth and depth of ROSS–SC program implementation by current service coordinators across all grantee types; and (3) analyzing current reporting requirements and performance metrics to improve future program outcome evaluation. To do so, this study will use a full population survey of current service coordinators funded through ROSS–SC grants made in FY 2013, FY 2014, and FY 2015, and site visits to select grantees.

A web-based survey will allow the study team to investigate important Service Coordinator (SC) program characteristics not included in grant applications or current reporting tools, in order to provide generalizable evidence on the ''effective and efficient use of resources'' across all ROSS–SC service coordinators. These include SC qualifications and experience, program management structure, resident intake and assessment processes, services offered, partnerships utilized and leveraged, and case management data systems and outcome evaluation tools used to track participant activities and outcomes. Since there is no centralized database of service coordinator contact information, this must first be obtained through a brief online survey sent to each grantee contact person.

Site visits to seven high-performing grantees will include onsite observations and interviews with grantees, service coordinators, and program partners, as well as focus groups with program participants to gather context-specific data on both program processes and outcomes to aid in identifying best practices and common challenges across grantees.

Respondents: For the survey, 330 grantee contact persons and 840 service coordinators (assumes 70% response rate from total estimated population of 1200) at 7 grantee site visit locations, 56 staff and partners, and 107 public housing residents.

Estimated total number of hours needed to prepare the information collection including number of respondents, frequency of response, hours of response, and cost of response time: Based on the below assumptions and tables, we calculate the total burden hours for this study to be 1,248.50 hours and the total cost to be $32,975.18.

Whereas many ROSS–SC grantee contact persons in HUD's database are a PHA Executive Director, PHA Division Director, or the Chief Executive Officer of the grantee, we estimated their cost per response by using the most recent (May 2015) Bureau of Labor Statistics, Occupational Employment Statistics median hourly wage for the labor category, Chief Executives (11–1011): $84.19.

Whereas ROSS–SC service coordinators and other grantee staff and service partners have a range of experience and skills, we averaged the median hourly wage for two labor categories: The Social and Community Service Manager (11–9151) median hourly wage of $30.54, and the Community and Social Service Specialists, All Other (21–1099) category with a rate of $20.14. This produces an average of both median hourly wage rates equal to $25.34.

Respondent	Occupation	SOC Code	Median hourly wage rate	Average (median) hourly wage rate
Grantee Contact Person	Chief Executive	11–1011	$84.19	$84.19
ROSS Service Coordinator & Partners	Social and Community Services Manager	11–9151	30.54	25.34
	Community and Social Service Specialist, All Other.	21–1099	20.14	

Source: Bureau of Labor Statistics, Occupational Employment Statistics (May 2015), *https://www.bls.gov/oes/current/oes_stru.htm.*

Hourly costs for public housing resident focus group participants were estimated using FY 2016 HUD 30% Income Limit for All Areas calculations from the Office of Policy Development and Research through HUD's Web site located at *https://www.huduser.gov/portal/datasets/il/il16/index.html.* This identifies income limits by county for extremely low income households earning at or below 30% of their county median income. These limits are adjusted by household sizes of up to eight household members. We averaged the county median values to produce a national average median income by household size for extremely low income households. Based on the ROSS–SC program emphasis on increasing family self-sufficiency, and independent living and aging in place for the elderly and disabled, we estimate that:

- 20% of potential respondents will live alone (21 respondents) with an average median income of $13,537.
- 10% will reside in a 2-person household (11 respondents) with an average median income of $15,464.
- 30% will reside in a 3-person household (32 respondents) with an average median income of $17,396.
- 30% will reside in a 4-person household (32 respondents) with an average median income of $19,305.
- 10% will reside in a 5-person household (11 respondents) with an average median income of $20,872.

To produce a basic hourly rate, we divide the average median annual income amount by 1,950 work hours per year, equaling 5 days at 37.5 hours per week for each of the 52 weeks out of the year.

All assumptions are reflected in the table below.

Information collection	Number of respondents	Frequency of response	Burden hour per response	Annual burden hours	Hourly cost per response ($)	Total cost ($)
ROSS Grantee Contact Person Survey	330	1	0.25	82.5	84.19	6,945.68
ROSS Service Coordinators Survey	[1] 840	1	1.0	840	25.34	21,285.60
ROSS Site Visit—Staff and Partners	56	1	2.0	112	25.34	2,838.08
HUD Residents living alone	21	1	2.0	42	6.94	291.48
HUD Residents in 2-person household	11	1	2.0	22	7.93	174.46
HUD Residents in 3-person household	32	1	2.0	64	8.92	570.88
HUD Residents in 4-person household	32	1	2.0	64	9.90	633.60
HUD Residents in 5-person household	11	1	2.0	22	10.70	235.40
Total	1,333			1,248.5		32,975.18

[1] The full population is estimated at 1,200 service coordinators. The number of respondents is based on anticipated response rate of 70%.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Dated: May 9, 2017.

Matthew E. Ammon,

General Deputy Assistant Secretary for Policy, Development and Research.

[FR Doc. 2017–09866 Filed 5–15–17; 8:45 am]

BILLING CODE 4210–67–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–624–625 (Fourth Review)]

Helical Spring Lock Washers From China and Taiwan; Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the antidumping duty orders on helical spring lock washers from China and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission, pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)), instituted these reviews on November 1, 2016 (81 FR 75851) and determined on February 6, 2017 that it would conduct

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

expedited reviews (82 FR 12241, March 1, 2017).

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on May 16, 2017. The views of the Commission are contained in USITC Publication 4689 (May 2017), entitled *Helical Spring Lock Washers from China and Taiwan: Investigation Nos. 731–TA–624–625 (Fourth Review).*

By order of the Commission.

Issued: May 11, 2017.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2017–09881 Filed 5–15–17; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110–0009]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Law Enforcement Officers Killed and Assaulted Program, Analysis of Officers Feloniously Killed and Assaulted; and Law Enforcement Officers Killed and Assaulted Program, Analysis of Officers Accidentally Killed

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Criminal Justice Information Services Division (CJIS), 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.

DATES: Comments are encouraged and will be accepted for 60 days until July 17, 2017.

FOR FURTHER INFORMATION CONTACT: All comments, suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Mrs. Amy C. Blasher, Unit Chief, Federal Bureau of Investigation, Criminal Information Services Division, Module E–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; facsimile (304) 625–3566.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Federal Bureau of Investigation, 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;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* Law Enforcement Officers Killed and Assaulted Program, Analysis of Officers Feloniously Killed and Assaulted Program; and Law Enforcement Officers Killed and Assaulted, Analysis of Officers Accidentally Killed.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is 1–701 and 1–701a. The applicable component within the Department of Justice is the Criminal Justice Information Services Division, in the Federal Bureau of Investigation.

4. Affected public who will be asked or required to respond, as well as a brief abstract:

Primary: City, county, state, tribal and federal law enforcement agencies.

Abstract: Under Title 28, U.S. Code, Section 534, Acquisition, Preservation, and Exchange of Identification Records; Appointment of Officials this collection requests the number of officers killed or assaulted from law enforcement agencies in order for the FBI Uniform Crime Reporting Program to serve as the national clearinghouse for the collection and dissemination of law enforcement officer death/assault data and to publish these statistics in Law Enforcement Officers Killed and Assaulted.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* UCR Participation Burden Estimation: There are approximately 188 law enforcement agency respondents with an estimated response time of 1 hour per report.

6. *An estimate of the total public burden (in hours) associated with the collection:* There are approximately 188 hours, annual burden, associated with this information collection.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405A, Washington, DC 20530.

Dated: May 10, 2017.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017–09788 Filed 5–15–17; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110–0002]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Supplementary Homicide Report

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Criminal Justice Information Services Division (CJIS), 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.

DATES: Comments are encouraged and will be accepted for 60 days until July 17, 2017.

FOR FURTHER INFORMATION CONTACT: All comments, suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Mrs. Amy C. Blasher, Unit Chief, Federal Bureau of Investigation, Criminal Information Services Division, Module E–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; facsimile (304) 625–3566.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning

the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Federal Bureau of Investigation, 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;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* Supplementary Homicide Report.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is 1–704. The applicable component within the Department of Justice is the Criminal Justice Information Services Division, in the Federal Bureau of Investigation.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: City, county, state, tribal and federal law enforcement agencies.

Abstract: Under Title 28, U.S. Code, Section 534, this information collection requests homicide data from respondents in order for the FBI UCR Program to serve as the national clearinghouse for the collection and dissemination of homicide data and to publish these statistics in Crime in the United States. The SHR provides for the national UCR Program a record of each homicide incident including details regarding the victim, offender, their relationship, the weapon used, and the circumstances in which each criminal homicide, justifiable homicide, and manslaughter by negligence is committed.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* UCR Participation Burden Estimation: There is a potential of 10,106 law enforcement agency respondents that submit monthly for a total of 121,272 responses with an estimated response time of 9 minutes per response.

6. *An estimate of the total public burden (in hours) associated with the collection:* There are approximately 18,191 hours, annual burden, associated with this information collection.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405A, Washington, DC 20530.

Dated: May 10, 2017.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017–09789 Filed 5–15–17; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0094]

Bureau of Justice Statistics; Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Currently Approved Collection: Annual Survey of Jails; Deaths in Custody Reporting Program—Local Jails; Survey of Jails in Indian Country

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 60-day Notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting a revision to an existing information collection to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until July 17, 2017.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Mary Cowhig, Statistician, Bureau of Justice Statistics, 810 Seventh Street NW., Washington, DC 20531 (email: *mary.cowhig@usdoj.gov;* telephone: 202–353–4982).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, 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;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this Information Collection Revision:

1. *Type of Information Collection:* Revision of a currently approved collection.

2. *The Title of the Form/Collection:* Annual Survey of Jails; Deaths in Custody Reporting Program—Local Jails; Survey of Jails in Indian Country.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* This revision will only affect pre-data collection verification calls to local jails for the Deaths in Custody Reporting Program—Local Jails collection, and will not require formal changes to any data collection forms.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* County and city jail authorities. This revision will not impact the tribal jail respondents. The Deaths in Custody Reporting Program—Local Jails obtains annual data from all local jails on the number and nature of deaths of inmates in the custody of the jail. Please refer to the original OMB package (1121–0094) for a full description of the collection.

Each year, prior to the next cycle of the Deaths in Custody Reporting Program—Local Jails data collection, verification calls are made to jail respondents to learn about changes in

the jail jurisdiction point of contact and leadership, facility eligibility, closures and openings, and the feasibility of capturing information on inmate and facility characteristics in the Deaths in Custody Reporting Program (DCRP). BJS requests the addition of 4 questions to the verification calls made to the 3,000 local jails to: (1) Determine whether or not their data management systems maintain an aggregate count of non-U.S. citizens held in their facilities, by conviction status; and (2) assess jails' ability and willingness to report these counts to BJS.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 3,000 respondents, each taking an additional 6 minutes during annual verification calls for the Deaths in Custody Reporting Program—Local Jails collection. This brings the total burden per DCRP respondent to about 30 minutes each year or 1 hour if the jail has a death and submits an individual-level death record.

6. *An estimate of the total public burden (in hours) associated with the collection:* There is an estimated 3,245 total burden hours associated with all three jail collections annually.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405A, Washington, DC 20530.

Dated: May 11, 2017.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017–09878 Filed 5–15–17; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Prohibited Transaction Exemption (PTE) 2016–08; Exemption Application No. D–11866]

Baxter International Inc. (Baxter); Located in Deerfield, IL

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice of technical correction.

On October 19, 2016, the Department published PTE 2016–08 in the **Federal Register** at 81 FR 72119. PTE 2016–08 is an administrative exemption from the prohibited transaction provisions of the Employee Retirement Income Security Act of 1974 (the Act), and the Internal Revenue Code of 1986, that permits Baxter International Inc. to contribute publicly traded common stock of Baxalta (the Contribution) to the Baxter International Inc. and Subsidiaries Pension Plan.

Due to a technical error, the effective date of the grant notice is incorrect. Accordingly, the Department is hereby revising that notice. On page 72120 of the grant notice, the third full paragraph beginning with ''Effective Date'' is revised to read:

This exemption is effective as of May 2, 2016, the date the Contribution was initiated by Baxter.

FOR FURTHER INFORMATION CONTACT: Mr. Erin Hesse of the Department, telephone (202) 693–8546. (This is not a toll-free number).

Signed at Washington, DC, this 28th day of April, 2017.

Lyssa E. Hall,

Director, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department Of Labor.

[FR Doc. 2017–09838 Filed 5–15–17; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0010]

Fire Protection in Shipyard Employment Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Fire Protection in Shipyard Employment Standard.

DATES: Comments must be submitted (postmarked, sent or received) by July 17, 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–2010–0010, 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–2010–0010) 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 materials 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 publically available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Todd Owen or Theda Kenney, 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 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 Fire Protection in Shipyard Employment Standard (29 CFR part 1915, subpart P) specifies a number of collection of information (paperwork) requirements. In general, the Standard requires employers to develop a written fire safety plan and written statements or policies that contain information about fire watches and fire response duties and responsibilities. The Standard also requires the employer to obtain medical exams for certain workers and to develop training programs and to train employees exposed to fire hazards. Additionally, the Standard requires employers to create and maintain records to certify that employees have been made aware of the details of the fire safety plan and that employees have been trained as required by the Standard.

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 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 Fire Protection in Shipyard Employment Standard (29 CFR part 1915, subpart P). The Agency is requesting an increase in burden hours from 6,051 to 6,603 burden hours (a total increase of 552 burden hours). The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB to extend the approval of the information collection requirements.

Type of Review: Extension of a currently approved collection.

Title: Fire Protection in Shipyard Employment Standard (29 CFR part 1915, subpart P).

OMB Control Number: 1218–0248.

Affected Public: Business or other for-profits.

Number of Respondents: 678.

Number of Responses: 55,572.

Frequency of Responses: Quarterly; Annually.

Average Time per Response: Various.

Estimated Total Burden Hours: 6,603.

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 materials must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2010–0010). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov*. Therefore, OSHA cautions commenters about submitting personal information such as 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 publically available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available from the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

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).

Dated: May 10, 2017.

Dorothy Dougherty,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2017–09868 Filed 5–15–17; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Submission for OMB Review; Comment Request; Correction

AGENCY: National Endowment for the Arts, National Foundation on the Arts and the Humanities.

ACTION: Notice; correction.

SUMMARY: The National Endowment for the Arts published a document in the **Federal Register** of May 9, 2017, concerning the public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: Application for International Indemnification. The document contained an inaccurate Description.

FOR FURTHER INFORMATION CONTACT: Patricia Loiko, 202–682–5541.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of May 9, 2017 in FR Doc. 2017–09333, on page 21554,

in the second column, correct the ''Description'' caption to read:

Description: This application form is used by non-profit, tax-exempt organizations (primarily museums), and governmental units to apply to the Federal Council on the Arts and the Humanities (through the NEA) for indemnification of eligible works of art and artifacts, borrowed from lenders abroad for exhibition in the United States, from within the United States when the foreign works of art are integral to the exhibition, or sent from the United States for exhibition abroad. The indemnity agreement is backed by the full faith and credit of the United States. In the event of loss or damage to an indemnified object, the Federal Council certifies the validity of the claim and requests payment from Congress. 20 U.S.C. 973 *et seq.* requires such an application and specifies information which must be supplied. This statutory requirement is implemented by regulation at 45 CFR 1160.4.

Dated: May 11, 2017.

Kathy Daum,

Director, Administrative Services Office, National Endowment for the Arts.

[FR Doc. 2017–09880 Filed 5–15–17; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

Submission for OMB Review; Comment Request

AGENCY: National Endowment for the Humanities, National Foundation on the Arts and the Humanities.

ACTION: Notice and request for comments.

SUMMARY: The National Endowment for the Humanities (NEH) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval as required by the Paperwork Reduction Act of 1995.

DATES: Comments on this ICR must be submitted on or before June 15, 2017.

ADDRESSES: Send comments, identified by control number 3136–0139, to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the National Endowment for the Humanities, Office of Management and Budget, Room 10235, Washington, DC 20503; (202) 395–7316.

FOR FURTHER INFORMATION CONTACT: Mr. Joel Schwartz, Chief Guidelines Officer, NEH, 400 7th Street SW., Washington, DC 20506; (202) 606–8473; *jschwartz@neh.gov*.

SUPPLEMENTARY INFORMATION: OMB is particularly interested in comments which (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, 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 submissions of responses.

Agency: National Endowment for the Humanities.

Title of Proposal: General Clearance Authority to Develop Evaluation Instruments for the National Endowment for the Humanities.

OMB Number: N/A.

Affected Public: NEH grantees.

Total Respondents: 1160.

Frequency of Collection: On occasion.

Average Time per Response: 30 minutes.

Estimated Total Burden Hours: 580 hours.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: NEH seeks approval from OMB for a general clearance authority to develop evaluation instruments for its grant programs. These evaluation instruments will be used to collect information from NEH grantees from one to three years after the grantee has submitted the final performance report.

You may obtain copies of this ICR, with applicable supporting documentation, by contacting Joel Schwartz, Chief Guidelines Officer, NEH at (202) 606–8473 or *jschwartz@neh.gov*.

Dated: May 10, 2017.

Margaret F. Plympton,

Deputy Chairman.

[FR Doc. 2017–09837 Filed 5–15–17; 8:45 am]

BILLING CODE 7536–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Meeting Notice

TIME AND DATE: 2:00 p.m., Wednesday, June 7, 2017.

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue NW., Washington, DC.

STATUS: Hearing OPEN to the Public at 2:00 p.m.

PURPOSE: Public Hearing in conjunction with each meeting of OPIC's Board of Directors, to afford an opportunity for any person to present views regarding the activities of the Corporation.

PROCEDURES: Individuals wishing to address the hearing orally must provide advance notice to OPIC's Corporate Secretary no later than 5 p.m. Wednesday, May 31, 2017. The notice must include the individual's name, title, organization, address, and telephone number, and a concise summary of the subject matter to be presented.

Oral presentations may not exceed ten (10) minutes. The time for individual presentations may be reduced proportionately, if necessary, to afford all participants who have submitted a timely request an opportunity to be heard.

Participants wishing to submit a written statement for the record must submit a copy of such statement to OPIC's Corporate Secretary no later than 5 p.m. Wednesday, May 31, 2017. Such statement must be typewritten, double spaced, and may not exceed twenty-five (25) pages.

Upon receipt of the required notice, OPIC will prepare an agenda, which will be available at the hearing, that identifies speakers, the subject on which each participant will speak, and the time allotted for each presentation.

A written summary of the hearing will be compiled, and such summary will be made available, upon written request to OPIC's Corporate Secretary, at the cost of reproduction.

Written summaries of the projects to be presented at the June 15, 2017 Board meeting will be posted on OPIC's Web site.

CONTACT PERSON FOR INFORMATION: Information on the hearing may be obtained from Catherine F. I. Andrade at (202) 336–8768, via facsimile at (202) 408–0297, or via email at *Catherine.Andrade@opic.gov.*

Dated: May 12, 2017.

Catherine F. I. Andrade,

OPIC Corporate Secretary.

[FR Doc. 2017–09986 Filed 5–12–17; 4:15 pm]

BILLING CODE 3210–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2017–183; MC2017–130 and CP2017–184; MC2017–131 and CP2017–185]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* May 17, 2017.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2017–183; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package 2 Negotiated Service Agreement; *Filing Acceptance Date:* May 9, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Katalin K. Clendenin; *Comments Due:* May 17, 2017.

2. *Docket No(s).:* MC2017–130 and CP2017–184; *Filing Title:* Request of the United States Postal Service to Add Priority Mail Contract 318 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* May 9, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Kenneth R. Moeller; *Comments Due:* May 17, 2017.

3. *Docket No(s).:* MC2017–131 and CP2017–185; *Filing Title:* Request of the United States Postal Service to Add Priority Mail Express, Priority Mail & First-Class Package Service Contract 18 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* May 9, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Kenneth R. Moeller; *Comments Due:* May 17, 2017.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2017–09776 Filed 5–15–17; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32631; File No. 812–14455]

Allianz Funds, et al.

May 10, 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: Allianz Funds, Allianz Funds Multi-Strategy Trust, AllianzGI Institutional Multi-Series Trust, and Premier Multi-Series VIT, registered under the Act as open-end management investment companies with one or more series, and Allianz Global Investors U.S. LLC (the ''Adviser''), registered as an investment adviser under the Investment Advisers Act of 1940.

Filing Dates: The application was filed on May 5, 2015, and amended on April 4, 2016, September 22, 2016, and February 15, 2017. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

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 June 5, 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, c/o George B. Raine, Esq., Ropes & Gray LLP, 800 Boylston St., Boston, MA 02199.

FOR FURTHER INFORMATION CONTACT: Laura L. Solomon, Senior Counsel, at (202) 551–6915 or Nadya Roytblat, Assistant Chief Counsel, at (202) 551–6823 (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 subject to the terms and conditions stated in the application. Among others, an Adviser, through a designated committee, would administer the facility as a disinterested fiduciary as part of its duties under the investment management agreements with the Funds 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. 2017–09808 Filed 5–15–17; 8:45 am]

BILLING CODE 8011–01–P

[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.

[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. 34–80636; File No. SR–GEMX–2017–05)

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Schedule of Fees to Amend Pricing Related to Options Overlying NDX and MNX

May 10, 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 April 25, 2017, Nasdaq GEMX, LLC (''GEMX'' 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 amend the Exchange's Schedule of Fees to amend pricing related to options overlying NDX[3] and MNX,[4] as described further below. While changes to the Schedule of Fees pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on May 1, 2017.

The text of the proposed rule change is available on the Exchange's Web site at *www.ise.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.

[3] NDX represents options on the Nasdaq 100 Index traded under the symbol NDX (''NDX'').

[4] MNX represents options on one-tenth the value of the Nasdaq 100 Index traded under the symbol MNX (''MNX'').

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's Schedule of Fees to make changes to pricing related to NDX and MNX. The proposed changes are discussed in the following sections.

Fees and Rebates in NDX

The Exchange proposes to amend its Schedule of Fees to make pricing changes related to NDX. The Exchange notes that NDX is transitioning to be exclusively listed on the Exchange and its affiliated markets in 2017.[5] In light of this transition, the Exchange seeks to amend its NDX pricing structure.

Today, as set forth in Section I of the Schedule of Fees, the Exchange provides volume-based maker rebates to Market Maker[6] and Priority Customer[7] orders in Non-Penny Symbols[8] in four tiers based on a member's average daily volume (''ADV'') in the following categories: (1) Total Affiliated Member ADV,[9] and (2) Priority Customer Maker ADV,[10] as shown in the table below.[11] In addition, the Exchange charges volume-based taker fees to market participants based on achieving these volume thresholds.

TABLE 1

Tier	Total affiliated member ADV	Priority customer maker ADV
Tier 1 ...	0–99,999	0–19,999.
Tier 2 ...	100,000–224,999.	20,000–99,999.
Tier 3 ...	225,000–349,999.	100,000–149,999.
Tier 4 ...	350,000 or more.	150,000 or more.

Specifically, the Exchange provides a maker rebate to Market Maker orders in Non-Penny Symbols that is $0.40 per contract in Tier 1, $0.42 per contract in Tier 2, $0.50 per contract in Tier 3, and $0.75 per contract in Tier 4. The Exchange also provides a maker rebate to Priority Customer orders in Non-Penny Symbols that is $0.75 per contract in Tier 1 (or $0.76 per contract for members that execute a Priority Customer Maker ADV of 5,000 to 19,999 contracts in a given month), $0.80 per contract in Tier 2, $0.85 per contract in Tier 3, and $1.05 per contract in Tier 4. Additionally, the Exchange provides a maker rebate to Non-Nasdaq GEMX Market Maker,[12] Firm Proprietary[13]/Broker-Dealer,[14] and Professional Customer[15] orders in Non-Penny Symbols that is $0.25 per contract.[16]

The Exchange also charges volume-based taker fees in Non-Penny Symbols to market participants based on achieving the volume thresholds in the table above. Currently, the Exchange charges a taker fee for Non-Priority Customer[17] orders in Non-Penny Symbols that is $0.89 per contract, regardless of the tier achieved.[18] The Exchange also charges a taker fee for

[5] The Exchange and its affiliates will exclusively list NDX in the near future upon expiration of open expiries in this product on other markets.

[6] The term Market Maker refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. Market Maker orders sent to the Exchange by an Electronic Access Member (''EAM'') are assessed fees and rebates at the same level as Market Maker orders.

[7] A ''Priority Customer'' is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in GEMX Rule 100(a)(37A).

[8] ''Non-Penny Symbols'' are options overlying all symbols excluding Penny Symbols. NDX is a Non-Penny Symbol.

[9] The Total Affiliated Member ADV category includes all volume in all symbols and order types, including both maker and taker volume and volume executed in the PIM, Facilitation, Solicitation, and QCC mechanisms.

[10] The Priority Customer Maker ADV category includes all Priority Customer volume that adds liquidity in all symbols.

[11] All eligible volume from affiliated Members will be aggregated in determining applicable tiers, provided there is at least 75% common ownership between the Members as reflected on each Member's Form BD, Schedule A. The highest tier threshold attained above applies retroactively in a given month to all eligible traded contracts and applies to all eligible market participants. Any day that the market is not open for the entire trading day or the Exchange instructs members in writing to route their orders to other markets may be excluded from the ADV calculation; provided that the Exchange will only remove the day for members that would have a lower ADV with the day included.

[12] A ''Non-Nasdaq GEMX Market Maker'' is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended, registered in the same options class on another options exchange.

[13] A ''Firm Proprietary'' order is an order submitted by a member for its own proprietary account.

[14] A ''Broker-Dealer'' order is an order submitted by a member for a broker-dealer account that is not its own proprietary account.

[15] A ''Professional Customer'' is a person or entity that is not a broker/dealer and is not a Priority Customer.

[16] The maker rebates for these market participants are not volume-based.

[17] Non-Priority Customer includes Market Maker, Non-Nasdaq GEMX Market Maker, Firm Proprietary, Broker-Dealer, and Professional Customer.

[18] Non-Priority Customer orders are also charged the taker fee for trades executed during the opening rotation. Priority Customer orders executed during the opening rotation receive the applicable maker rebate based on the tier achieved.

Priority Customer orders that is $0.82 per contract for Tier 1 and $0.81 per contract for Tiers 2 through 4.

In addition, different taker fees are charged for trades executed against a Priority Customer in Non-Penny Symbols. In particular, Non-Priority Customer orders are charged a taker fee of $1.10 per contract for trades executed against a Priority Customer. Priority Customer orders are charged a taker fee of $0.85 per contract for trades executed against a Priority Customer. Orders in Non-Penny Symbols that do not trade against a Priority Customer are currently charged at the rates described in the paragraph above and as set forth in the Non-Penny Symbols table in Section I of the Schedule of Fees.

The Exchange also currently assesses different fees for regular Non-Penny Symbol orders executed in the Exchange's crossing mechanisms, as set forth in Schedule I of the Schedule of Fees (such orders, ''Auction Orders''). Specifically, the Exchange charges a fee for Non-Priority Customer Crossing Orders [19] (excluding PIM orders) in Non-Penny Symbols. This fee is currently $0.20 per contract for Non-Priority Customer orders on both the originating and contra side of a Crossing Order. The Exchange does not assess a fee for Priority Customer Crossing Orders (excluding PIM orders) in Non-Penny Symbols. The Exchange also charges a separate fee for Crossing Orders in Non- Penny Symbols for PIM orders only. This fee is currently $0.05 per contract for all Non-Priority Customer orders executed in the PIM, and also for Priority Customer orders on the contra-side of a PIM auction. There is no fee for Priority Customer orders on the agency side of a PIM auction. Lastly, for Responses to Crossing Orders [20] (excluding PIM orders) in Non-Penny Symbols, the Exchange charges a fee of $0.89 per contract for Non-Priority Customers orders and a fee of $0.82 per contract for Priority Customer orders. For all Responses to Crossing Orders executed in the PIM, the Exchange charges a $0.05 per contract fee for all market participant types.

In light of NDX's transition to becoming exclusively listed, the Exchange seeks to amend its pricing structure. Specifically, the Exchange seeks to eliminate the current pricing structure for NDX by excluding this index option from the fees and rebates applicable to all Non-Penny Symbol orders, and instead adopt standard transaction fees as set forth in a new table in Section I of the Schedule of Fees.[21] The Exchange also seeks to eliminate the maker rebates for all market participant orders in NDX.[22] As such, all Non-Priority Customer orders [23] in NDX (including Non-Priority Customer Auction Orders) will be assessed a transaction fee of $0.75, which will be uniform for these market participants, regardless of the tier achieved.[24] All Priority Customer orders in NDX (including Priority Customer Auction Orders) will not be assessed fees in any of the volume-based tiers.[25]

Non-Priority Customer License Surcharge for NDX and MNX

Currently, a number of index options are traded on the Exchange pursuant to license agreements for which the Exchange charges license surcharges. As set forth in Section II.B of the Schedule of Fees, the Exchange currently charges a $0.22 per contract license surcharge for all orders in NDX and MNX other than Priority Customer orders. For NDX only, the Exchange is proposing to amend Section II.B of the Schedule of Fees to increase the Non-Priority Customer License Surcharge from $0.22 to $0.25 per contract (''NDX Surcharge''), and to relocate the NDX Surcharge to note 9 in Section I of the Schedule of Fees, instead of stating the pricing within the current table in Section II.B of the Schedule of Fees. The proposed increase to $0.25 per contract will align the Exchange's NDX Surcharge with those of its affiliated markets, International Securities Exchange, LLC (''ISE'') and NASDAQ PHLX LLC (''Phlx'').[26]

As it relates to MNX, the Exchange seeks to eliminate the $0.22 Non-Priority Customer License Surcharge (''MNX Surcharge''), and proposes to remove any references to MNX currently in Section II.B of the Schedule of Fees.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[27] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[28] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [29]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission* [30] (''NetCoalition'') the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-

[19] A ''Crossing Order'' is an order executed in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Price Improvement Mechanism (''PIM'') or submitted as a Qualified Contingent Cross order. For purposes of this Fee Schedule, orders executed in the Block Order Mechanism are also considered Crossing Orders.

[20] ''Responses to Crossing Order'' is any contra-side interest (*i.e.,* orders & quotes) submitted after the commencement of an auction in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Block Order Mechanism or PIM.

[21] The Exchange will therefore add note 6 in Section I of the Schedule of Fees to provide that the fees set forth in the new pricing table for index options will apply only to NDX. Furthermore, note 6 will state that these fees are assessed to all executions in NDX to clarify that the proposing pricing also applies to Auction Orders in NDX.

[22] Orders in NDX will continue, however, to count toward volume-based tiers under the proposed pricing structure. As such, maker rebates will no longer be paid on NDX contracts, but NDX contracts will count toward the volume requirement to qualify for a rebate tier. For example, a Market Maker that executes a Total Affiliated Member ADV of 350,000 contracts in a given month would normally qualify for the maker rebate of $0.75 per contract in Tier 4. With the proposed changes, that Market Maker would not be paid a maker rebate for trades in NDX, but its executions in NDX would still count towards the monthly volume calculation (*i.e.,* to reach the Total Affiliated Member ADV Tier 4 threshold of 350,000 contracts).

[23] Market Maker orders in NDX sent to the Exchange by an EAM will continue to be assessed fees at the same level as Market Maker orders in NDX.

[24] The Exchange will therefore add note 10 in Section I of the Schedule of Fees to provide that this fee will not be subject to tier discounts. Orders in NDX, however, will still count toward volume-based tiers. For example, a Market Maker that executes a Total Affiliated Member ADV of 350,000 contracts in a given month would normally be charged a taker fee of $0.89 per contract for orders in Non-Penny Symbols. With the proposed changes, that Market Maker would pay a fee of $0.75 for trades in NDX, regardless of the tier achieved. That Market Maker's executions in NDX, however, would still be counted towards the monthly volume calculation (*i.e.,* to reach the Total Affiliated Member ADV Tier 4 threshold of 350,000 contracts). *See also* note 22 above.

[25] *See* notes 22 and 24 above.

[26] *See* ISE's Schedule of Fees, Section IV.B. *See also* Phlx's Pricing Schedule, Section II.

[27] 15 U.S.C. 78f(b).

[28] 15 U.S.C. 78f(b)(4) and (5).

[29] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[30] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

based approach.[31] As the court emphasized, the Commission ''intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost.'' [32]

Further, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .'' [33] Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

Fees and Rebates in NDX

The Exchange believes that the proposed pricing changes for NDX are reasonable, equitable and not unfairly discriminatory as NDX transitions to an exclusively-listed product. Similar to other proprietary products, the Exchange seeks to recoup the operational costs for listing proprietary products.[34] Also, pricing by symbol is a common practice on many U.S. options exchanges as a means to incentivize order flow to be sent to an exchange for execution in particular products. Other options exchanges price by symbol.[35] Further, the Exchange notes that with its products, market participants are offered an opportunity to either transact options overlying NDX or separately execute options overlying PowerShares QQQ Trust (''QQQ'').[36] Offering products such as QQQ provides market participants with a variety of choices in selecting the product they desire to utilize to transact NDX.[37] When exchanges are able to recoup costs associated with offering proprietary products, it incentivizes growth and competition for the innovation of additional products.

As proposed, the Exchange seeks to eliminate the existing fee and rebate structure for NDX orders, and instead adopt standard transaction fees for all such orders. Specifically, the proposed pricing changes for NDX will result in a flat fee of $0.75 per contract for all Non-Priority Customer NDX orders (including Non-Priority Customer Auction Orders), and no fees for any Priority Customer NDX orders (including Priority Customer Auction Orders). The Exchange believes that it is reasonable to eliminate the maker rebates for all market participant orders in NDX because it is similar to other exchanges, which do not provide rebates for certain proprietary products. On Phlx, no rebates are paid on NDX contracts.[38] Additionally, C2 Options Exchange, Inc. (''C2'') does not provide any rebates for RUT, which is another broad-based index option and similar proprietary product.[39] Furthermore, the Exchange believes that it is reasonable to eliminate the maker rebate for Priority Customer orders in NDX because even after the elimination of the rebate, Priority Customer orders (including Priority Customer Auction Orders) in NDX will not be assessed any fees under the proposed pricing structure.

Further, the Exchange's proposal to eliminate the maker rebates for all market participant orders in NDX is an equitable allocation and is not unfairly discriminatory because the Exchange will eliminate the rebate for all similarly-situated market participant types. As noted above, the Exchange believes it is equitable and not unfairly discriminatory to eliminate the rebate for Priority Customer orders as well because these orders (including Priority Customer Auction Orders) will no longer be assessed any fees under the proposed pricing structure.

The proposed pricing changes for NDX will result in a uniform fee of $0.75 per contract for all Non-Priority Customer orders (including Non-Priority Customer Auction Orders), and no fees for all Priority Customer orders (including Priority Customer Auction Orders). While the proposed $0.75 transaction fee for all Non-Priority Customer NDX orders is higher than the current fees assessed to all Non-Priority Customer Crossing Orders and PIM orders in Non-Penny Symbols (including NDX), the Exchange believes that the proposed pricing for NDX is reasonable because the increased fees in those categories are offset by decreased fees proposed in other categories. In particular, the proposed $0.75 fee is lower than the existing taker fees and existing fees for Responses to Crossing Orders (excluding PIM), in both cases currently assessed to all market participant orders in Non-Penny Symbols (including NDX). Additionally, as it relates to all Non-Priority Customers other than Market Makers, the increased fee amounts for Non-Priority Customer Crossing Orders and PIM orders in NDX are reasonable because the total fee of $1.00 per contract under the Exchange's proposal is comparable to the total amounts charged for similar proprietary products on other exchanges. For example, C2 charges all market participants other than public customers and C2 market makers a $0.55 transaction fee and a $0.45 index license surcharge fee in RUT, for a total of $1.00.[40]

Furthermore, the proposed uniform $0.75 per contract fee for Non-Priority Customer orders in NDX is reasonable because it is in line with Phlx's $0.75 per contract options transaction charge in NDX assessed to all electronic market participant orders other than customer orders.[41] Finally, the Exchange will not charge a transaction fee for any regular Priority Customer orders in NDX, which also is in line with Phlx, where customers are not charged an options transaction charge in NDX.[42]

The Exchange's proposed $0.75 per contract fee for all Non-Priority Customer orders in NDX is also equitable and not unfairly discriminatory because the Exchange will uniformly assess a $0.75 per contract fee for all such market participant orders. The Exchange believes it is equitable and not unfairly discriminatory to assess this fee on all participants except Priority Customers because the Exchange seeks to encourage Priority Customer order flow and the liquidity such order flow brings to the marketplace, which in turn benefits all market participants.

[31] *See NetCoalition,* at 534–535.

[32] *Id.* at 537.

[33] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[34] By way of example, in analyzing an obvious error, the Exchange would have additional data points available in establishing a theoretical price for a multiply listed option as compared to a proprietary product, which requires additional analysis and administrative time to comply with Exchange rules to resolve an obvious error.

[35] *See* pricing for Russell 2000 Index (''RUT'') on Chicago Board Options Exchange, Incorporated's (''CBOE'') Fees Schedule.

[36] QQQ is an exchange-traded fund based on the Nasdaq-100 Index®.

[37] By comparison, a market participant may trade options overlying RUT or separately the market participant has the choice of trading iShares Russell 2000 Index Fund (''IWM'') Exchange-Traded Fund Shares options, which are also multiply listed.

[38] *See* Phlx's Pricing Schedule, Section B.

[39] *See* pricing for RUT on C2's Fees Schedule.

[40] *See* C2's Fees Schedule, Section 1C. As it relates to the market participants noted above, C2 applies the $0.55 transaction fee to all executions in RUT other than trades on the open.

[41] *See* Phlx's Pricing Schedule, Section II.

[42] *Id.*

Non-Priority Customer License Surcharge for NDX and MNX

The Exchange believes that its proposal to increase the NDX Surcharge from $0.22 to $0.25 is reasonable because it is in line with the options surcharge of $0.25 for NDX transactions on ISE and Phlx, and is in fact lower than the $0.45 C2 Options Exchange surcharge applicable to non-public customer transactions in RUT.[43]

The Exchange believes that its proposal to increase the NDX Surcharge is an equitable allocation and is not unfairly discriminatory because the Exchange will apply the increase to all similarly-situated members. The Exchange believes it is equitable and not unfairly discriminatory to assess this increased surcharge on all participants except Priority Customers because the Exchange seeks to encourage Priority Customer order flow and the liquidity such order flow brings to the marketplace, which in turn benefits all market participants.

Furthermore, the Exchange believes that its proposal to remove any references to MNX in Section II.B of the Schedule of Fees is reasonable because the Exchange seeks to eliminate the $0.22 MNX Surcharge. The Exchange's proposal to remove references to the MNX Surcharge is also equitable and not unfairly discriminatory because the Exchange will eliminate the surcharge for all similarly-situated members.

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 inter-market or intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In terms of intra-market competition, the proposed changes to adopt separate pricing for orders in NDX will result in total fees for orders in NDX becoming more uniform across all classes of market participants, while still permitting Priority Customers to transact in NDX free of any transaction charge. Likewise, the increase in the NDX Surcharge will impact all Non-Priority Customers equally, and is designed to raise revenue for the Exchange without negatively impacting Priority Customers whose orders may enhance market quality for all Exchange members. Removing the maker rebate will also enhance the Exchange's ability to offer other rebates or reduced fees that could incentivize behavior that would enhance market quality on the Exchange, which would benefit all members.[44] Finally, the Exchange's proposal to remove any references to MNX from Section II.B of the Schedule of Fees will not have an impact on competition as it is simply designed to eliminate the MNX Surcharge for all Non-Priority Customers. Lastly, it is also important to note that notwithstanding the proposed fee changes to NDX, members may continue to separately execute options overlying PowerShares QQQ Trust (''QQQ'').[45]

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[46] and Rule 19b–4(f)(2)[47] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–GEMX–2017–05 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–GEMX–2017–05. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–GEMX–2017–05 and should be submitted on or before June 6, 2017.

[43] *See* C2's Fees Schedule, Section 1D.

[44] The Exchange offers rebates to market participants to encourage behavior on the Exchange such as adding more liquidity in a certain product.

[45] By comparison, a market participant may trade options overlying RUT or separately the market participant has the choice of trading iShares Russell 2000 Index Fund (''IWM'') Exchange-Traded Fund Shares options, which are also multiply listed.

[46] 15 U.S.C. 78s(b)(3)(A)(ii).

[47] 17 CFR 240.19b–4(f)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[48]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–09811 Filed 5–15–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80642; File No. SR–NYSE–2017–19]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 67 To Modify the Date of Appendix B Web Site Data Publication Pursuant to the Regulation NMS Plan To Implement a Tick Size Pilot Program

May 10, 2017.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on April 27, 2017, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 67 to modify the date of Appendix B Web site data publication pursuant to the Regulation NMS Plan to Implement a Tick Size Pilot Program (''Plan''). The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule 67(b) (Compliance with Data Collection Requirements)[4] implements the data collection and Web site publication requirements of the Plan.[5] Supplementary Material .70 to Rule 67 currently provides, among other things, that the requirement that the Exchange or their DEA make certain data for the Pre-Pilot Period and Pilot Period[6] publicly available on the Exchange's or DEA's Web site pursuant to Appendix B to the Plan shall commence on April 28, 2017.[7] The Exchange is proposing to amend Supplementary Material .70 to Rule 67 to delay the Appendix B data Web site publication date until August 31, 2017. The Exchange is proposing to further delay the Web site publication of Appendix B data until August 31, 2017 to permit additional time to consider a methodology to mitigate concerns raised in connection with the publication of Appendix B data.[8]

Pursuant to this proposed amendment, the Exchange would publish the required Appendix B data for the Pre-Pilot Period through April 30, 2017, by August 31, 2017. Thereafter, Appendix B data for a given month would be published within 120 calendar days following month end.[9] Thus, for example, Appendix B data for May 2017 would be made available on the Exchange's or DEA's Web site by September 28, 2017, and data for the month of June 2017 would be made available on the Exchange's or DEA's Web site by October 28, 2017.

As noted in Item 2 of this filing, the Exchange has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the 30-day operative delay. If the Commission waives the 30-day operative delay, the operative date of the proposed rule change will be the date of filing.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stock of small-capitalization companies. The Exchange believes that this proposal is consistent with the Act because it is in furtherance of the objectives of Section VII(A) of the Plan in that it is designed to provide the Exchange with additional time to consider a methodology to mitigate concerns raised in connection with the publication of Appendix B data.

[48] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 77468 (March 29, 2016), 81 FR 19269 (April 4, 2016) (Immediate Effectiveness of Proposed Rule Change Adopting Requirements for the Collection and Transmission of Data Pursuant to Appendices B and C of Regulation NMS Plan to Implement a Tick Size Pilot Program) (SR–NYSE–2016–27); *see also* Securities Exchange Act Release No. 78813 (September 12, 2016), 81 FR 63825 (September 16, 2016) (Immediate Effectiveness of Proposed Rule Change to Amend Rule 67 to Modify Certain Data Collection Requirements of the Regulation NMS Plan to Implement a Tick Size Pilot Program) (SR–NYSE–2016–63); *see also* Letter from John C. Roeser, Associate Director, Division of Trading and Markets, Commission, to Sherry Sandler, Associate General Counsel, NYSE, dated April 4, 2016.

[5] The Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014. *See* Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014 (''SRO Tick Size Plan Proposal''). *See* Securities Exchange Act Release No 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014); *see also* Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015).

[6] Unless otherwise defined herein, capitalized terms have the meaning ascribed to them in the Plan.

[7] *See* Supplementary Material .70 to Rule 67. *See also* Securities Exchange Act Release No. 80172 (March 8, 2017), 82 FR 13685 (March 14, 2017). *See also* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Robert L.D. Colby, Executive Vice President and Chief Legal Officer, Financial Industry Regulatory Authority, Inc. (''FINRA''), dated February 28, 2017.

[8] On March 3, 2017, FINRA filed a proposed rule change to implement an anonymous, grouped masking methodology for Appendix B.I, B.II. and B.IV. data. The comment period ended on April 5, 2017, and the Commission received three comment letters. *See* Securities Exchange Act Release No. 80193 (March 9, 2017) 82 FR 13901 (March 15, 2017).

[9] FINRA also submitted an exemptive request, on behalf of all Participants, to the SEC in connection with the instant filing.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements the provisions of the Plan, and is designed to assist the Participants in meeting their regulatory obligations pursuant to the Plan.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6) thereunder.[13]

A proposed rule change filed under Rule 19(b)-4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing so that it may become operative on the date of filing.

The Exchange notes that the proposed rule change is intended to mitigate confidentiality concerns raised in connection with Section VII(A) of the Plan, which provides that the data made publicly available will not identify the Trading Center that generated the data. The Exchange states that the additional time would allow consideration of a methodology to mitigate concerns related to the publication of Appendix B data.[14]

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will synchronize the timing for publication of Appendix B data for all Participants, which should enhance the consistency and usefulness of the data.[15] Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative on the date of 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 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–NYSE–2017–19 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2017–19. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2017–19 and should be submitted on or before June 6, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–09815 Filed 5–15–17; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] The Commission recently approved a FINRA proposal to implement an aggregated, anonymous grouped masking methodology for the publication of Appendix B data related to OTC trading activity. *See* Securities Exchange Release No. 80551, (April 28, 2017), 82 FR 20948 (May 4, 2017). *See also* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Marcia E. Asquith, Executive Vice President FINRA, dated April 28, 2017.

[15] The Commission recently granted exemptive relief to the Participants delay the publication of their Appendix B data until August 31, 2017. *See* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Jennifer Piorko Mitchell, Vice President and Deputy Corporate Secretary, FINRA, dated April 27, 2017. The Commission notes that other Participants have submitted proposed rule changes to delay the publication of Appendix B data until August 31, 2017. *See e.g.,* SR–BatsBYX–2017–10; SR–BatsEDGA–2017–10; SR–BatsEDGX–2017–19; SR–BX–2017–022; SR–CHX–2017–07; SR–FINRA–2017–010; SR–IEX–2017–12; SR–NASDAQ–2017–044; SR–Phlx–2017–33; SR–NYSEArca–2017–49; SR–NYSEMKT–2017–24.

[16] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a closed meeting on Thursday, May 18, 2017 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the

Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(7), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matter at the closed meeting.

Commissioner Piwowar, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed; please contact Brent J. Fields from the Office of the Secretary at (202) 551–5400.

Dated: May 11, 2017.

Brent J. Fields,

Secretary.

[FR Doc. 2017–09936 Filed 5–12–17; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80647; File No. SR–CHX–2017–07]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify the Date of Appendix B Web Site Data Publication Pursuant to the Regulation NMS Plan To Implement a Tick Size Pilot Program

May 10, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on April 28, 2017, the Chicago Stock Exchange, Inc. (''CHX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CHX proposes to amend Article 20, Rule 13(b) of the Rules of the Exchange (''CHX Rules'') to modify the date of Appendix B Web site data publication pursuant to the Regulation NMS Plan to Implement a Tick Size Pilot Program (''Plan'').

The text of this proposed rule change is available on the Exchange's Web site at (*www.chx.com*) and in 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 CHX included statements concerning the purpose of and basis for the proposed rule changes 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 CHX has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Article 20, Rule 13(b) (Compliance with Data Collection Requirements) [3] implements the data collection and Web site publication requirements of the Plan.[4] Paragraph .08 of Article 20, Rule 13(b) currently provides, among other things, that with respect to data for the Pre-Pilot Period [5] and the Pilot Period, the Exchange shall make certain Appendix C data available to FINRA for aggregation and publication on the FINRA Web site pursuant to FINRA Rules and the Exchange will publish Appendix B data on the Exchange Web site, which shall commence on April 28, 2017.[6] The Exchange is proposing to further delay the Web site publication of Appendix B data until August 31, 2017 to permit additional time to consider a methodology to mitigate concerns raised in connection with the publication of Appendix B data.[7]

Pursuant to this proposed amendment, the Exchange would publish the required Appendix B data for the Pre-Pilot Period through April 30, 2017 by August 31, 2017. Thereafter, Appendix B data for a given month would be published within 120 calendar days following month end.[8] Thus, for example, Appendix B data for May 2017 would be made available on the Exchange Web site by September 28, 2017, and data for the month of June 2017 would be made available on the FINRA [sic] Web site by October 28, 2017.

As noted in Item 2 of this filing, the Exchange has filed the proposed rule change for immediate effectiveness. The operative date of the proposed rule change will be the date of filing.

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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 80227 (March 13, 2017), 82 FR 14263 (March 17, 2017) (SR–CHX–2017–05); *see also* Securities Exchange Act Release No. 79538 (December 13, 2016), 81 FR 91979 (December 19, 2016) (SR–CHX–2016–21); *see also* Securities Exchange Act Release No. 77469 (March 29, 2016), 81 FR 19275 (April 4, 2016) (SR–CHX–2016–02).

[4] The Plan Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014. *See* Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014 (''SRO Tick Size Plan Proposal''). *See* Securities Exchange Act Release No 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014); *see also* Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015).

[5] Unless otherwise defined herein, capitalized terms have the meaning ascribed to them in CHX Article 20, Rule 13.

[6] *See* Exchange Act Release No. 80227 (March 13, 2017), 82 FR 14263 (March 17, 2017) (SR–CHX–2017–05). *See also* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Robert L.D. Colby, Executive Vice President and Chief Legal Officer, FINRA, dated February 28, 2017.

[7] On March 3, 2017, FINRA filed a proposed rule change to implement an anonymous, grouped masking methodology for Appendix B.I, B.II. and B.IV. data. The comment period ended on April 5, 2017, and the Commission received three comment letters. *See* Securities Exchange Act Release No. 80193 (March 9, 2017) 82 FR 13901 (March 15, 2017). FINRA and the Exchange also submitted an exemptive request to the SEC, which, if granted, would permit FINRA to, among other things, publish on its Web site Appendix B.I., B.II. and B.IV. data for over-the-counter activity with respect to Trading Centers for which FINRA or the Exchange is the designated examining authority, in a manner consistent with FINRA's proposed anonymous, grouped masking methodology. *See* Letter from Marcia E. Asquith, Executive Vice President, Board and External Relations, FINRA, to Robert W. Errett, Deputy Secretary, SEC, dated March 2, 2017.

[8] FINRA, on behalf of the Participants, is submitting an exemptive request to the SEC in connection with the instant filing.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stock of small-capitalization companies. The Exchange believes that this proposal is consistent with the Act because it is in furtherance of the objectives of Section VII(A) of the Plan in that it is designed to provide the Exchange with additional time to consider a methodology to mitigate concerns raised in connection with the publication of Appendix B data.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements the provisions of the Plan.

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 [11] and Rule 19b-4(f)(6) thereunder.[12]

A proposed rule change filed under Rule 19(b)-4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing so that it may become operative on the date of filing.

The Exchange notes that the proposed rule change is intended to mitigate confidentiality concerns raised in connection with Section VII(A) of the Plan, which provides that the data made publicly available will not identify the Trading Center that generated the data. The Exchange states that the additional time would allow consideration of a methodology to mitigate concerns related to the publication of Appendix B data.[13]

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will synchronize the timing for publication of Appendix B data for all Participants, which should enhance the consistency and usefulness of the data.[14] Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative on the date of filing.[15]

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 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–CHX–2017–07 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–CHX–2017–07. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CHX–2017–07 and should be submitted on or before June 6, 2017.

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b-4(f)(6).

[13] The Commission recently approved a FINRA proposal to implement an aggregated, anonymous grouped masking methodology for the publication of Appendix B data related to OTC trading activity. *See* Securities Exchange Release No. 80551, (April 28, 2017), 82 FR 20948 (May 4, 2017). *See also* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Marcia E. Asquith, Executive Vice President FINRA, dated April 28, 2017.

[14] The Commission recently granted exemptive relief to the Participants delay the publication of their Appendix B data until August 31, 2017. *See* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Jennifer Piorko Mitchell, Vice President and Deputy Corporate Secretary, FINRA, dated April 28, 2017. The Commission notes that other Participants have submitted proposed rule changes to delay the publication of Appendix B data until August 31, 2017. *See e.g.,* SR-BatsBYX–2017–10; SR-BatsBZX–2017–31; SR-BatsEDGA–2017–10; SR-BatsEDGX–2017–19; SR–BX–2017–022; SR–FINRA–2017–010; SR–IEX–2017–12; SR–NASDAQ–2017–044; SR-Phlx-2017–33; SR–NYSE–2017–19; SR–NYSEArca-2017–49; SR–NYSEMKT–2017–24.

[15] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–09819 Filed 5–15–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80637; File No. SR–ISE–2017–35]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Schedule of Fees To Amend Pricing Related to Options Overlying NDX and MNX

May 10, 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 April 25, 2017, Nasdaq ISE, LLC (''ISE'' 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 the Exchange's Schedule of Fees to amend pricing related to options overlying NDX[3] and MNX,[4] as described further below. While changes to the Schedule of Fees pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on May 1, 2017.

The text of the proposed rule change is available on the Exchange's Web site at *www.ise.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.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's Schedule of Fees to make changes to pricing related to NDX and MNX. The proposed changes are discussed in the following sections.

Fees and Rebates for Regular Orders in NDX

The Exchange proposes to amend its Schedule of Fees to make pricing changes related to NDX. The Exchange notes that NDX is transitioning to be exclusively listed on the Exchange and its affiliated markets in 2017.[5] In light of this transition, the Exchange seeks to amend its NDX pricing structure.

Today, as set forth in Section I of the Schedule of Fees, the Exchange charges the following transaction fees for regular orders in Non-Select Symbols[6] (''Existing Transaction Fees''): (i) $0.25 per contract for Market Maker[7] orders not sent by an Electronic Access Member (''EAM'');[8] (ii) $0.20 per contract for Market Maker orders sent by an EAM; (iii) $0.72 per contract for Non-Nasdaq ISE Market Maker[9] orders; (iv) $0.72 per contract for Firm Proprietary[10]/Broker-Dealer[11] orders; and (v) $0.72 per contract for Professional Customer[12] orders. Priority Customers[13] are not assessed a transaction fee for regular orders in Non-Select Symbols (including NDX). In addition, as set forth in Section IV.B of the Schedule of Fees, the Exchange charges a $0.25 per contract license surcharge for all Non-Priority Customer[14] orders in NDX (''NDX Surcharge'').

The Exchange also currently assesses different fees for regular Non-Select Symbol orders executed in the Exchange's crossing mechanisms, as set forth in Section I of the Schedule of Fees (such orders, ''Auction Orders''). In particular, the Exchange charges fees for Crossing Orders,[15] including separate fees for PIM orders of 100 or fewer contracts, which fees apply to all regular Non-Priority Customer orders in Non-Select Symbols (including NDX) on both the originating and contra side of a Crossing Order.[16] For regular Market Maker orders not sent by an EAM, the fee for Crossing Orders is currently $0.25 per contract, subject to applicable tier discounts.[17] For all other regular Non-Priority Customer orders (*i.e.* Market Maker orders sent by an EAM, Non-Nasdaq ISE Market Maker orders, Firm Proprietary/Broker-Dealer orders, and Professional Customers orders), the fee for Crossing Orders is currently $0.20 per contract.[18] For regular Priority Customer orders in Non-Select Symbols,

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] NDX represents options on the Nasdaq 100 Index traded under the symbol NDX (''NDX'').

[4] MNX represents options on one-tenth the value of the Nasdaq 100 Index traded under the symbol MNX (''MNX'').

[5] The Exchange and its affiliates will exclusively list NDX in the near future upon expiration of open expiries in this product on other markets.

[6] ''Non-Select Symbols'' are options overlying all symbols that are not in the Penny Pilot Program. NDX is a Non-Select Symbol.

[7] The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. *See* Rule 100(a)(25).

[8] In addition, these Market Maker fees are subject to tier discounts. Specifically, Market Makers that execute a monthly volume of 250,000 contracts or more are entitled to a discounted rate of $0.20 per contract. *See* Schedule of Fees, Section IV.C.

[9] A ''Non-Nasdaq ISE Market Maker'' is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended, registered in the same options class on another options exchange.

[10] A ''Firm Proprietary'' order is an order submitted by a member for its own proprietary account.

[11] A ''Broker-Dealer'' order is an order submitted by a member for a broker-dealer account that is not its own proprietary account.

[12] A ''Professional Customer'' is a person or entity that is not a broker/dealer and is not a Priority Customer.

[13] A ''Priority Customer'' is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in ISE Rule 100(a)(37A).

[14] Non-Priority Customer includes Market Maker, Non-Nasdaq ISE Market Maker, Firm Proprietary/Broker-Dealer, and Professional Customer.

[15] A ''Crossing Order'' is an order executed in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Price Improvement Mechanism (''PIM'') or submitted as a Qualified Contingent Cross order. For purposes of this Fee Schedule, orders executed in the Block Order Mechanism are also considered Crossing Orders.

[16] Firm Proprietary and Non-Nasdaq ISE Market Maker Crossing Orders (including PIM orders of 100 or fewer contracts) are also subject to the Crossing Fee Cap provided in Section IV.H of the Schedule of Fees.

[17] *See* Schedule of Fees, Section IV.C.

[18] This fee is reduced to $0.10 per contract for Professional Customer orders either submitted as a Qualified Contingent Cross order or executed in the Exchange's Solicited Order Mechanism.

the Exchange does not assess a fee for Crossing Orders.

In addition, the Exchange charges a separate fee for regular Non-Priority Customer PIM orders of 100 or fewer contracts in Non-Select Symbols. This fee is currently $0.05 per contract for all regular Non-Priority Customer orders for 100 or fewer contracts executed in the PIM. For exchange members that execute an average daily volume (''ADV'') in regular Priority Customer PIM orders of 20,000 or more contracts in a given month, the fee for Non-Priority Customer orders is further reduced to $0.03 per contract, which will be applied retroactively to all eligible PIM volume in that month once the threshold has been reached.[19] PIM orders of greater than 100 contracts, as well as orders executed in the Exchange's other crossing mechanisms, pay the fee for Crossing Orders as described above. The Exchange does not charge a fee for regular Priority Customer PIM orders of 100 or fewer in Non-Select Symbols. Lastly, the Exchange charges a fee for Responses to Crossing Orders [20] in Non-Select Symbols that is $0.50 per contract for all regular market participant (including Priority Customer) orders.

The Exchange also provides a break-up rebate for certain PIM orders in Non-Select Symbols that do not trade with their contra order. Specifically, the Exchange assesses a break-up rebate of $0.15 per contract for regular Non-Nasdaq ISE Market Maker, Firm Proprietary/Broker-Dealer, Professional Customer, and Priority Customer orders in Non-Select Symbols.[21] Market Makers are not permitted to enter orders into the PIM and are therefore not eligible for this rebate.

In light of NDX's transition to becoming exclusively listed, the Exchange seeks to amend its NDX pricing structure. Specifically, the Exchange seeks to eliminate the current fee structure for NDX by excluding this index option from all the fees currently applicable to regular Non-Select Symbol orders, and instead adopt standard transaction fees as set forth in a new table in Section I of the Schedule of Fees.[22] The Exchange also seeks to eliminate the PIM break-up rebates it currently provides for Non-Nasdaq ISE Market Maker, Firm Proprietary/Broker-Dealer, Professional Customer, and Priority Customer orders in NDX. As such, all regular Non-Priority Customer orders in NDX (including Non-Priority Customer Auction Orders) will be assessed a uniform transaction fee of $0.75.[23] Additionally, Firm Proprietary and Non-Nasdaq ISE Market Maker orders in NDX, for both Crossing Orders and PIM orders of 100 or fewer contracts, will no longer be subject to the Crossing Fee Cap provided in Section IV.H of the Schedule of Fees. The Exchange will therefore provide in Section IV.H that those orders will not be included in the calculation of the monthly fee cap. All regular Priority Customer orders in NDX (including Priority Customer Auction Orders) will not be assessed any fees. The Exchange will continue to charge the $0.25 NDX Surcharge for all Non-Priority Customer orders in NDX. There will be no proposed changes to the complex order fees and rebates in Section II of the Schedule of Fees.

Non-Priority Customer License Surcharge for MNX

As set forth in Section IV.B of the Schedule of Fees, the Exchange currently charges a $0.25 per contract license surcharge for all Non-Priority Customer orders in MNX (''MNX Surcharge''). The Exchange now seeks to eliminate the MNX Surcharge, and proposes to remove any references to MNX currently in Section IV.B of the Schedule of Fees.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[24] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[25] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [26]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission* [27] (''NetCoalition'') the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[28] As the court emphasized, the Commission ''intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost.'' [29]

Further, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .'' [30] Although the court and the SEC were discussing the cash equities markets, the Exchange believes

[19] Market Maker PIM orders of 100 or fewer contracts in Non-Select Symbols (for orders not sent by an EAM) are not eligible for the current tier discounts provided under Section IV.C of the Schedule of Fees.

[20] ''Responses to Crossing Order'' is any contra-side interest submitted after the commencement of an auction in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Block Order Mechanism or PIM.

[21] The applicable fee is applied to any contracts for which a rebate is provided.

[22] The Exchange will therefore add note 7 in Section I of the Schedule of Fees to provide that the fees set forth in the new pricing table for index options will apply only to NDX. Furthermore, note 7 will state that these fees are assessed to all executions in NDX to clarify that the proposed pricing also applies to regular Auction Orders in NDX.

[23] Therefore, the current tier discounts set forth in Section IV.C of the Schedule of Fees will no longer apply to Market Maker orders in NDX (for orders not sent by an EAM) as specified above. Such orders in NDX, however, will still count toward the volume requirement to qualify for a tier discount. For example, a Market Maker that executes a monthly volume of more than 250,000 contracts would normally be charged a fee of $0.20 per contract for regular orders in Non-Select Symbols instead of the normal $0.25 per contract fee. With the proposed changes, that Market Maker would not be entitled to any discount for trades in NDX, and would instead pay a fee of $0.75 per contract. That Market Maker's executions in NDX, however, would still be counted towards the monthly volume calculation (*i.e.,* to reach the 250,000 contract threshold).

[24] 15 U.S.C. 78f(b).

[25] 15 U.S.C. 78f(b)(4) and (5).

[26] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[27] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[28] *See NetCoalition,* at 534–535.

[29] *Id.* at 537.

[30] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

that these views apply with equal force to the options markets.

Fees and Rebates for Regular Orders in NDX

The Exchange believes that the proposed pricing changes for NDX are reasonable, equitable and not unfairly discriminatory as NDX transitions to an exclusively-listed product. Similar to other proprietary products, the Exchange seeks to recoup the operational costs for listing proprietary products.[31] Also, pricing by symbol is a common practice on many U.S. options exchanges as a means to incentivize order flow to be sent to an exchange for execution in particular products. Other options exchanges price by symbol.[32] Further, the Exchange notes that with its products, market participants are offered an opportunity to either transact options overlying NDX or separately execute options overlying PowerShares QQQ Trust (''QQQ'').[33] Offering products such as QQQ provides market participants with a variety of choices in selecting the product they desire to utilize to transact NDX.[34] When exchanges are able to recoup costs associated with offering proprietary products, it incentivizes growth and competition for the innovation of additional products.

As proposed, the Exchange seeks to eliminate the existing fee structure for regular NDX orders, and instead adopt standard transaction fees for all such orders. Specifically, the proposed pricing changes for NDX will result in a flat fee of $0.75 per contract for all regular Non-Priority Customer orders, and no fees for all regular Priority Customer orders. While the proposed fee amounts for Non-Priority Customer orders in NDX are higher than the existing fees assessed for such orders, the Exchange believes, as noted above, that the proposed fee amounts are reasonable as NDX transitions to an exclusively-listed product. Similar to other proprietary products, the Exchange seeks to recoup the operational costs for listing proprietary products. The Exchange also believes that the proposed elimination of the Crossing Fee Cap for Firm Proprietary and Non-Nasdaq ISE Market Maker orders in NDX is reasonable for the same reason.

Furthermore, as it relates to the Existing Transaction Fees, the Exchange believes that the increased fees for Non-Priority Customer orders in NDX are reasonable because the proposed fee amounts are in line with NASDAQ PHLX LLC's $0.75 per contract options transaction charge in NDX assessed to all electronic market participant orders other than customer orders.[35] While the Exchange is proposing a greater fee increase for Market Maker NDX orders than all other Non-Priority Customer NDX orders,[36] the Exchange also recently waived the $0.70 marketing fee for NDX orders.[37] The Exchange therefore believes that the increased fees for Market Maker orders in NDX are reasonable because the total fees assessed to Market Makers NDX orders are lower overall than the fees historically assessed to such orders. For example, a Market Maker transacting a regular order in NDX would previously be assessed a $0.25 or $0.20 (for orders sent by an EAM) per contract transaction fee for orders in Non-Select Symbols, a $0.22 per contract license surcharge for Non-Priority Customer orders in NDX, and a $0.70 per contract marketing fee for a total charge of $1.17 or $1.12 (for orders sent by an EAM). With this proposal, a Market Maker transacting a regular order in NDX will be assessed a $0.75 per contract transaction fee, a $0.25 per contract license surcharge, and no marketing fee for a total charge of $1.00. Finally, the Exchange will not charge a transaction fee for any regular Priority Customer orders in NDX, which also is in line with Phlx, where customers are not charged an options transaction charge in NDX.[38]

As it relates to Auction Orders in NDX, the Exchange believes that the increased fees for Market Maker orders in NDX are reasonable because the total fees are generally lower overall under the Exchange's proposal than the total fees historically assessed to such orders. As noted above, the Exchange recently waived the $0.70 marketing fee for NDX orders. As such, a Market Maker transacting a regular Crossing Order in NDX would previously be assessed a $0.25 or $0.20 (for orders sent by an EAM) per contract fee for orders in Non-Select Symbols, a $0.22 per contract NDX Surcharge, and a $0.70 per contract marketing fee for a total charge of $1.17 or $1.12 (for orders sent by an EAM). For Responses to Crossing Orders in NDX, a Market Maker would previously be assessed a $0.50 per contract fee for Responses to Crossing Orders in Non-Select Symbols, a $0.22 per contract NDX Surcharge, and a $0.70 per contract marketing fee for a total charge of $1.42. That Market Maker would be charged a considerably lower total amount of $1.00 for both types of Auction Orders under the Exchange's proposal. While the total fees assessed for Market Makers transacting regular PIM orders of 100 or fewer NDX contracts are slightly higher under this proposal than the total fees historically assessed to such orders,[39] the Exchange believes that the slight increase is reasonable because it is offset by the significant decrease for the other two Auction Orders as previously discussed.

The Exchange also believes that the increased fees for the other Non-Priority Customer Auction Orders in NDX are reasonable because the total fee of $1.00 per contract under the Exchange's proposal is comparable to the total amounts charged for similar proprietary products on other exchanges. For example, C2 Options Exchange, Inc. (''C2'') charges all market participants other than public customers and C2 market makers a $0.55 transaction fee and a $0.45 index license surcharge fee in RUT, which is another broad-based index option and similar proprietary product, for a total of $1.00.[40]

Furthermore, the Exchange believes that its proposal to eliminate the break-up rebate for regular Non-Nasdaq ISE Market Maker, Firm Proprietary/Broker-Dealer, Professional Customer, and Priority Customer orders in NDX is reasonable because it is similar to other exchanges, which do not provide rebates for certain proprietary products. On Phlx, no rebates are paid on NDX contracts.[41] Additionally, C2 does not

[31] By way of example, in analyzing an obvious error, the Exchange would have additional data points available in establishing a theoretical price for a multiply listed option as compared to a proprietary product, which requires additional analysis and administrative time to comply with Exchange rules to resolve an obvious error.

[32] *See* pricing for Russell 2000 Index (''RUT'') on Chicago Board Options Exchange, Incorporated's (''CBOE'') Fees Schedule.

[33] QQQ is an exchange-traded fund based on the Nasdaq-100 Index®.

[34] By comparison, a market participant may trade options overlying RUT or separately the market participant has the choice of trading iShares Russell 2000 Index Fund (''IWM'') Exchange-Traded Fund Shares options, which are also multiply listed.

[35] *See* Phlx's Pricing Schedule, Section II.

[36] The fees are increasing from $0.25 to $0.75 per contract for Market Maker orders not sent by an EAM, and from $0.20 to $0.75 per contract for Market Maker orders sent by an EAM. The fees for all other Non-Priority Customer NDX orders are increasing from $0.72 to $0.75.

[37] *See* Securities Exchange Act Release No. 80249 (March 15, 2017), 82 FR 14586 (March 21, 2017) (SR–ISE–2017–23). The Exchange also increased the license surcharge for Non-Priority Customer orders in NDX from $0.22 to $0.25 as part of this rule filing.

[38] *See* Phlx's Pricing Schedule, Section II.

[39] The total fees previously assessed to a Market Maker for such PIM orders in NDX would be $0.97 per contract because of the $0.05 PIM order fee, the $0.22 NDX Surcharge, and the $0.70 marketing fee.

[40] *See* C2's Fees Schedule, Section 1C. As it relates to the market participants noted above, C2 applies the $0.55 transaction fee to all executions in RUT other than trades on the open.

[41] *See* Phlx's Pricing Schedule, Section B.

provide any rebates for RUT.[42] In addition, the Exchange believes that it is reasonable to eliminate the break-up rebate for regular Priority Customer orders in NDX because even after the elimination of the rebate, such Priority Customer orders (including Priority Customer Auction Orders) will not be assessed any fees under the proposed pricing structure.

The Exchange's proposed fee amounts for all regular Non-Priority Customer orders in NDX (including Non-Priority Customer Auction Orders) is also equitable and not unfairly discriminatory because the Exchange will uniformly assess a $0.75 per contract fee for all such market participant orders. The Exchange believes it is equitable and not unfairly discriminatory to assess this increased fee on all participants except Priority Customers because the Exchange seeks to encourage Priority Customer order flow and the liquidity such order flow brings to the marketplace, which in turn benefits all market participants.

Additionally, the Exchange believes that the proposed elimination of the Crossing Fee Cap for Firm Proprietary and Non-Nasdaq ISE Market Maker orders in NDX is equitable and not unfairly discriminatory because the Exchange will eliminate the Crossing Fee Cap for all similarly-situated members.

Finally, the Exchange's proposal to eliminate the break-up rebate for regular Non-Nasdaq ISE Market Maker, Firm Proprietary/Broker-Dealer, Professional Customer, and Priority Customer orders in NDX is an equitable allocation and is not unfairly discriminatory because the Exchange will eliminate the rebate for all similarly-situated members. As noted above, the Exchange believes it is equitable and not unfairly discriminatory to eliminate the rebate for Priority Customer NDX orders as well because these orders (including Priority Customer Auction Orders) will no longer be assessed any fees under the proposed pricing structure.

Non-Priority Customer License Surcharge for MNX

The Exchange believes its proposal to remove any references to MNX in Section IV.B of the Schedule of Fees is reasonable because the Exchange is seeking to eliminate the $0.25 MNX Surcharge. The Exchange's proposal to remove references to the MNX Surcharge is also equitable and not unfairly discriminatory because the Exchange will eliminate the surcharge for all similarly-situated members.

[42] *See* pricing for RUT on C2's Fees Schedule.

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 inter-market or intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In terms of intra-market competition, the proposed changes to adopt separate pricing for all regular orders in NDX will result in total fees for orders in NDX becoming more uniform across all classes of market participants, while still permitting Priority Customers to transact in NDX free of any transaction charge. Removing the break-up rebate will also enhance the Exchange's ability to offer other rebates or reduced fees that could incentivize behavior that would enhance market quality on the Exchange, which would benefit all members. Finally, the Exchange's proposal to remove any references to MNX from Section IV.B of the Schedule of Fees will not have an impact on competition as it is simply designed to eliminate the MNX Surcharge for all Non-Priority Customers. Lastly, it is also important to note that despite the proposed fee increases with respect to NDX, members may continue to separately execute options overlying PowerShares QQQ Trust (''QQQ'').

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[43] and Rule 19b–4(f)(2)[44] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2017–35 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2017–35. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and

[43] 15 U.S.C. 78s(b)(3)(A)(ii).

[44] 17 CFR 240.19b–4(f)(2).

printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2017–35 and should be submitted on or before June 6, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[45]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–09812 Filed 5–15–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80644; File No. SR–CBOE–2017–038]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

May 10, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 28, 2017, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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 its Fees Schedule. The text of the proposed rule change is provided below. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, 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.

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 its Order Routing Subsidy (ORS) and Complex Order Routing Subsidy (CORS) Programs (collectively ''Programs''). The proposed changes will be effective on May 1, 2017. By way of background, the ORS and CORS Programs allow CBOE to enter into subsidy arrangements with any CBOE Trading Permit Holder (''TPH'') (each, a ''Participating TPH'') or Non-CBOE TPH broker-dealer (each a ''Participating Non-CBOE TPH'') that meet certain criteria and provide certain order routing functionalities to other CBOE TPHs, Non-CBOE TPHs and/or use such functionalities themselves.[3] (The term ''Participant'' as used in this filing refers to either a Participating TPH or a Participating Non-CBOE TPH). Participants in the ORS Program receive a payment from CBOE for every executed contract for simple orders routed to CBOE through their system. CBOE does not make payments under the ORS Program with respect to executed contracts in single-listed options classes traded on CBOE, or with respect to complex orders or spread orders. Similarly, participants in the CORS Program receive a payment from CBOE for every executed contract for complex orders routed to CBOE through their system. CBOE does not make payments under the CORS Program with respect to executed contracts in single-listed options classes traded on CBOE or with respect to simple orders. Currently, under both programs the Exchange does not pay a subsidy for customer (origin code ''C'') orders but does pay a subsidy of $0.07 per contract for all non-customer orders.

The Exchange proposes to increase the subsidy for all non-customer orders under both programs. The Exchange proposes that ORS/CORS participants whose total aggregate non-customer ORS and CORS volume is greater than 0.40% of the total national volume (excluding volume in options classes included in Underlying Symbol List A, DJX, MXEA, MXEF, XSP or XSPAM) will receive an additional payment of $0.07 per contract for all executed contracts exceeding that threshold during a calendar month. The Exchange notes that another exchange with a similar subsidy program offers an additional payment based on the percentage of national volume executed by the participant.[4]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[5] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[6] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed amendments to the ORS and CORS Programs are reasonable because the proposed changes still affords Participants an opportunity to

[45] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* CBOE Fees Schedule, ''Order Router Subsidy Program'' and ''Complex Order Router Subsidy Program'' tables for more details on the ORS and CORS Programs.

[4] *See* NASDAQ PHLX LLC Pricing Schedule, Preface (B), Customer Rebate Program (paying an additional $0.05 per contract rebate if a participant qualifies for Market Access and Routing Subsidy payments and meets certain volume thresholds as a percentage of national customer volume) and Section IV(e) [sic], Other Transaction Fees, Market Access and Routing Subsidy.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] *Id.*

receive additional payments to subsidize the costs associated with providing certain order routing functionalities. Additionally, the Exchange believes the increased $0.07 per contract subsidy for non-customer orders when the participating TPHs and participating Non-CBOE TPHs reach the applicable volume threshold is reasonable because it is similar to the subsidies paid by another exchange under a similar subsidy program.[8] The Exchange also believes it is reasonable, equitable and not unfairly discriminatory to increase the subsidy as it relates to non-customer orders only under the Programs. Particularly, the Exchange notes that customer orders already have the opportunity to earn various rebates, discounts or fee caps.[9] Moreover, the Exchange notes that another exchange also does not provide subsidies for customer orders.[10]

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed changes will impose an unnecessary burden on intramarket competition because they will apply equally to all participating parties. Although the subsidy for orders routed to CBOE through a Participant's system only applies to Participants of the Programs, the subsidies are designed to encourage the sending of more orders to the Exchange, which should provide greater liquidity and trading opportunities for all market participants. Additionally, although customer orders will not be eligible for the increased subsidy under the Programs, customer orders are eligible for other rebates, discounts or fee caps.[11] The Exchange also does not believe that such changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that, should the proposed changes make CBOE more attractive for trading, market participants trading on other exchanges can always elect to provide order routing functionality to CBOE. Additionally, to the extent that the proposed changes to the ORS and CORS Programs result in increased trading volume on CBOE and lessened volume on other exchanges, the Exchange notes that market participants trading on other exchanges can always elect to become TPHs on CBOE to take advantage of the trading opportunities.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and paragraph (f) of Rule 19b–4 [13] thereunder. 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 will 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–CBOE–2017–038 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–CBOE–2017–038. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2017–038 and should be submitted on or before June 6, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–09816 Filed 5–15–17; 8:45 am]

BILLING CODE 8011–01–P

[8] *See supra* note 4.

[9] *See e.g.,* CBOE Fees Schedule, Customer Large Trade Discount and Volume Incentive Program.

[10] *See supra* note 4.

[11] *See e.g.,* CBOE Fees Schedule, Customer Large Trade Discount and Volume Incentive Program.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80650; File No. SR–IEX–2017–12]

Self-Regulatory Organizations: Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Exchange Rule 11.340 To Modify the Date of Appendix B Web Site Data Publication Pursuant to the Regulation NMS Plan To Implement a Tick Size Pilot Program

May 10, 2017.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on April 28, 2017, the Investors Exchange LLC (''IEX'' or the ''Exchange'') filed with the Securities and Exchange Commission

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

(the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (''Act''),[4] and Rule 19b–4 thereunder,[5] Investors Exchange LLC (''IEX'' or ''Exchange'') is filing with the Commission a proposed rule change to amend Exchange Rule 11.340 to modify the date of Appendix B Web site data publication pursuant to the Regulation NMS Plan to Implement a Tick Size Pilot Program (''Plan''). The Exchange has filed the proposed rule change for immediate effectiveness. The operative date of the proposed rule change will be the date of filing.

The text of the proposed rule change is available at the Exchange's Web site at *www.iextrading.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 the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statement may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule 11.340(b) (Compliance with Data Collection Requirements) [6] implements the data collection and Web site publication requirements of the Plan.[7] Supplementary Material .09 to IEX Rule 11.340 currently provides, among other things, that the requirement that the Exchange or Designated Examining Authority (''DEA'') make certain data for the Pre-Pilot Period and Pilot Period [8] publicly available on the Exchange's or DEA's Web site pursuant to Appendix B to the Plan shall commence on April 28, 2017.[9] IEX is proposing to further delay the Web site publication of Appendix B data until August 31, 2017 to permit additional time to consider a methodology to mitigate concerns raised in connection with the publication of Appendix B data.[10]

Pursuant to this proposed amendment, FINRA [sic] [11] or the DEA would publish the required Appendix B data for the Pre-Pilot Period through April 30, 2017, by August 31, 2017. Thereafter, Appendix B data for a given month would be published within 120 calendar days following month end.[12] Thus, for example, Appendix B data for May 2017 would be made available on the FINRA [sic] [13] or DEA Web site by September 28, 2017, and data for the month of June 2017 would be made available on the FINRA [sic] [14] or DEA Web site by October 28, 2017.

As noted in Item 2 of this filing, IEX has filed the proposed rule change for immediate effectiveness. The operative date of the proposed rule change will be the date of filing.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [15] in general, and furthers the objectives of Section 6(b)(5) of the Act [16] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and Section 6(b)(8) of the Act,[17] which requires that IEX rules not impose any burden on competition that is not necessary or appropriate.

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stock of small-capitalization companies. The Exchange believes that this proposal is consistent with the Act because it is in furtherance of the objectives of Section VII(A) of the Plan in that it is designed to provide additional time to consider a methodology to mitigate concerns raised in connection with the publication of Appendix B data.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements the provisions of the Plan.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [18] and Rule 19b–4(f)(6) thereunder.[19]

A proposed rule change filed under Rule 19(b)–4(f)(6) normally does not

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CFR 240.19b–4.

[6] *See* Exchange Rule 11.340(b). *See also* Securities Exchange Act Release Nos. 77418 (March 22, 2016), 81 FR 17213 (March 28, 2016); *and* 78795 (September 9, 2016), 81 FR 63508 (September 15, 2016).

[7] The Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014. *See* Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014 (''SRO Tick Size Plan Proposal''). *See* Securities Exchange Act Release No 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014); *see also* Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015).

[8] Unless otherwise defined herein, capitalized terms have the meaning ascribed to them in Rule 11.340.

[9] *See* IEX Rule 11.340.09. *See also* Securities Exchange Act Release No. 80218 (March 10, 2017), 82 FR 14054 (March 16, 2017). *See also* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Robert L.D. Colby, Executive Vice President and Chief Legal Officer, FINRA, dated February 28, 2017.

[10] On March 3, 2017, FINRA filed a proposed rule change to implement an anonymous, grouped masking methodology for Appendix B.I, B.II. and B.IV. data. The comment period ended on April 5, 2017, and the Commission received three comment letters. *See* Securities Exchange Act Release No. 80193 (March 9, 2017) 82 FR 13901 (March 15, 2017).

[11] The Commission notes IEX Rule 11.340.09 states that the ''Exchange or DEA'' will conduct this function.

[12] FINRA also is submitting an exemptive request to the SEC on behalf of the Participants in connection with the instant filing.

[13] *See supra* note 11.

[14] *Id.*

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78f(b)(8).

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(6).

become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing so that it may become operative on the date of filing.

The Exchange notes that the proposed rule change is intended to mitigate confidentiality concerns raised in connection with Section VII(A) of the Plan, which provides that the data made publicly available will not identify the Trading Center that generated the data. The Exchange states that the additional time would allow consideration of a methodology to mitigate concerns related to the publication of Appendix B data.[20]

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will synchronize the timing for publication of Appendix B data for all Participants, which should enhance the consistency and usefulness of the data.[21] Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative on the date of filing.[22]

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 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–IEX–2017–12 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–IEX–2017–12. This file number should be included in 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 Section, 100 F Street NE., Washington, DC 20549–1090. Copies of the filing will also be available for inspection and copying at the IEX's principal office and on its Internet Web site at *www.iextrading.com.* 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–IEX–2017–12 and should be submitted on or before June 6, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–09822 Filed 5–15–17; 8:45 am]

BILLING CODE 8011–01–P

[20] The Commission recently approved a FINRA proposal to implement an aggregated, anonymous grouped masking methodology for the publication of Appendix B data related to OTC trading activity. *See* Securities Exchange Release No. 80551, (April 28, 2017), 82 FR 20948 (May 4, 2017). *See also* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Marcia E. Asquith, Executive Vice President FINRA, dated April 28, 2017.

[21] The Commission recently granted exemptive relief to the Participants to delay the publication of their Appendix B data until August 31, 2017. *See* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Jennifer Piorko Mitchell, Vice President and Deputy Corporate Secretary, FINRA, dated April 28, 2017. The Commission notes that other Participants have submitted proposed rule changes to delay the publication of Appendix B data until August 31, 2017. *See e.g.,* SR–BatsBYX–2017–10; SR–BatsBZX–2017–31; SR–BatsEDGA–2017–10; SR–BatsEDGX–2017–19; SR–BX–2017–022; SR–CHX–2017–07; SR–FINRA–2017–010; SR–NASDAQ–2017–044; SR–Phlx–2017–33; SR–NYSE–2017–19; SR–NYSEArca–2017–49; SR–NYSEMKT–2017–24.

[22] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80641; File No. SR–BatsBZX–2017–28]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees

May 10, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 1, 2017, Bats BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members[5] and non-Members of the Exchange pursuant to BZX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule applicable to its equities trading platform (''BZX Equities'') to: (i) Add the definition of OCC Customer Volume or OCV, to the Definitions section of the fee schedule; (ii) modify five definitions in the fee schedule to reflect the new definition of OCV; (iii) modify the criteria under footnotes 1 and 12 required to achieve certain Cross-Asset Tiers to reflect the new definition of OCV; (iv) add two Cross-Asset Add Volume Tiers under footnote 1; and (v) and eliminate the Cross-Asset Step-Up Tiers under footnote 3.

OCC Customer Volume Definition

The Exchange proposes to add the definition of ''OCC Customer Volume'' or ''OCV'' to the Definitions section of its fee schedule. OCC Customer Volume or OCV will be defined as the total equity and Exchange Traded Fund (''ETF'') options volume that clears in the Customer [6] range at the Options Clearing Corporation (''OCC'') for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption [7] and on any day with a scheduled early market close, using the definition of Customer as provided under the Exchange's fee schedule for BZX Options.

In connection with this change, the Exchange proposes to modify five definitions which reference TCV [8] to reflect the new definition of OCV, specifically Options Add TCV, Options Customer Add TCV, Options Customer Remove TCV, Options Market Maker Add TCV, and Options Step-Up Add TCV.

- Currently ''Options Add TCV'' for purposes of equities pricing means ADAV [9] as a percentage of TCV,[10] using the definitions of ADAV and TCV as provided under the Exchange's fee schedule for BZX Options. The Exchange proposes the definition be modified to, ''Options Add OCV'' for purposes of equities pricing means ADAV as a percentage of OCV, using the definitions of ADAV and OCV as provided under the Exchange's fee schedule for BZX Options.
- Currently ''Options Customer Add TCV'' for purposes of equities pricing means ADAV resulting from Customer orders as a percentage of TCV, using the definitions of ADAV, Customer and TCV as provided under the Exchange's fee schedule for BZX Options. The Exchange proposes the definition be modified to, ''Options Customer Add OCV'' for purposes of equities pricing means ADAV resulting from Customer orders as a percentage of OCV, using the definitions of ADAV, Customer and OCV as provided under the Exchange's fee schedule for BZX Options.
- Currently ''Options Customer Remove TCV'' for purposes of equities pricing means ADV resulting from Customer orders that remove liquidity as a percentage of TCV, using the definitions of ADV, Customer and TCV as provided under the Exchange's fee schedule for BZX Options. The Exchange proposes the definition be modified to, ''Options Customer Remove OCV'' for purposes of equities pricing means ADV resulting from Customer orders that remove liquidity as a percentage of OCV, using the definitions of ADV, Customer and OCV as provided under the Exchange's fee schedule for BZX Options.
- Currently ''Options Market Maker Add TCV'' for purposes of equities pricing means ADAV resulting from Market Maker [11] orders as a percentage of TCV, using the definitions of ADAV, Market Maker and TCV as provided under the Exchange's fee schedule for BZX Options. The Exchange proposes the definition be modified to, ''Options Market Maker Add OCV'' for purposes of equities pricing means ADAV resulting from Market Maker orders as a percentage of OCV, using the definitions of ADAV, Market Maker and OCV as provided under the Exchange's fee schedule for BZX Options.
- Currently ''Options Step-Up Add TCV'' for purposes of equities pricing means ADAV as a percentage of TCV in January 2014 subtracted from current ADAV as a percentage of TCV, using the definitions of ADAV and TCV as provided under the Exchange's fee schedule for BZX Options. The Exchange proposes the definition be modified to, ''Options Step-Up Add OCV'' for purposes of equities pricing means ADAV as a percentage of OCV in January 2014 subtracted from current ADAV as a percentage of OCV, using the definitions of ADAV and OCV as provided under the Exchange's fee schedule for BZX Options.

Update Cross-Asset Tier Criteria From TCV to OCV

By definition OCV is a smaller amount of volume than TCV, and thus, the Exchange proposes to slightly increase the volume percentages required to meet the criteria of the Cross-Asset volume tiers that utilize the definition of OCV. Doing so will keep each tier's criteria relatively unchanged from its current requirements.

Footnote 1, the Add Volume Tiers. The Exchange currently offers eleven tiers under footnote 1, the Add Volume Tiers, upon a Member achieving each tier's required criteria; these tiers offer enhance rebates for orders that yield fee

[6] ''Customer'' applies to any transaction identified by a Member for clearing in the Customer range at the OCC, excluding any transaction for a Broker Dealer or a ''Professional'' as defined in Exchange Rule 16.1. *See* BZX Options' fee schedule *available at http://www.bats.com/us/options/membership/fee_schedule/bzx/.*

[7] An ''Exchange System Disruption'' means ''any day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during Regular Trading Hours.'' *See* the Exchange's fee schedule *available at http://www.bats.com/us/equities/membership/fee_schedule/bzx/.*

[8] ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply. *Id.*

[9] ''ADAV'' means average daily added volume calculated as the number of shares added per day and ''ADV'' means average daily volume calculated as the number of shares added or removed, combined, per day. ADAV and ADV are calculated on a monthly basis. *See* the Exchange's fee schedule *available at http://www.bats.com/us/options/membership/fee_schedule/bzx/.*

[10] ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges to the consolidated transaction reporting plan for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close. *Id.*

[11] ''Market Maker'' applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is registered with the Exchange as a Market Maker as defined in Rule 16.1(a)(37). *Id.*

codes B,[12] V,[13] Y [14] or HA.[15] Footnote 1 of the fee schedule includes two Cross-Asset Add Volume Tiers that the Exchange proposes to amend to include the new definition of OCV as discussed above. Additionally, the Exchange proposes the addition of two new tiers, Cross-Asset Add Volume Tier 3 and Cross-Asset Add Volume Tier 4. These proposed changes are described in greater detail below.

• Currently, under Cross-Asset Add Volume Tier 1, Members may receive an enhanced rebate of $0.0028 where they have: (1) An ADAV as a percentage of TCV greater than or equal to 0.15%; and (2) an Options Customer Add TCV greater than or equal to 0.10%. As amended, Members must have: (1) An ADAV as a percentage of TCV greater than or equal to 0.15%; and (2) an Options Customer Add OCV greater than or equal to 0.15%. The Exchange does not propose to alter the rebate associated with this tier.

• Currently, under Cross-Asset Add Volume Tier 2, Members may receive an enhanced rebate of $0.0030 where they have: (1) On BZX Options an ADAV in Customer orders greater than or equal to 0.60% of average TCV; (2) on BZX Options an ADAV in Market Maker orders greater than or equal to 0.25% of average TCV; and (3) an ADAV greater than or equal to 0.30% of average TCV. As amended, Members must have: (1) an Options Customer Add OCV greater than or equal to 0.80%; (2) an Options Market Maker Add OCV greater than or equal to 0.35%; and (3) an ADAV greater than or equal to 0.30% of average TCV. The Exchange does not propose to alter the rebate associated with this tier.

• As proposed, under the new Cross-Asset Add Volume Tier 3 Members may receive an enhanced rebate of $0.0028 where they have on BZX Options an ADAV greater than or equal to 2.00% of average OCV.

• As proposed, under the new Cross-Asset Add Volume Tier 4 Members may receive an enhanced rebate of $0.0029 where they have: (1) An ADAV greater than or equal to 0.15% of the TCV; and (2) an Options Market Maker Add OCV greater than or equal to 2.75%.

Footnote 12, the Cross-Asset Tape B Tier. The Exchange offers one tier under footnote 12, the Cross-Asset Tape B Tier, upon a Member achieving the tier's required criteria, this tier offers an enhance rebate of $0.0031 for orders that yield fee code B. The Exchange proposes to amend the tier's criteria to include the new definition of OCV as discussed above. Currently, under the Cross-Asset Tape B Tier, Members may receive an enhanced rebate where they have: (1) A Tape B Step-Up Add TCV [16] from February 2015 greater than or equal to 0.06%; and (2) an Options Market Maker Add TCV greater than or equal to 0.75%. As amended, Members may receive an enhanced rebate where they have: (1) A Tape B Step-Up Add TCV from February 2015 greater than or equal to 0.06%; and (2) an Options Market Maker Add OCV greater than or equal to 1.00%.

Eliminate Cross-Asset Step-Up Tiers

The Exchange currently offers three Cross-Asset Step-Up Tiers pursuant to footnote 3 under which a Member is provided an enhanced rebate ranging from $0.0027 to $0.0029 per share and one Cross-Asset Step-Up Tier under which a Member pays a reduced fee of $0.00295 per share. The Exchange now proposes to delete these tiers as they were not incentivizing order flow as originally designed. Accordingly, the Exchange proposes to remove all text from footnote 3, reserving it for future use, and to remove footnote 3 from each of the fee codes in the Fee Codes and Associated Fees table to which it currently applies, namely, fee codes B, BB, N, V, W, and Y. The Exchange notes that Members that previously qualified for enhanced rebates under the Cross-Asset Step-Up Tiers of footnote 3 may achieve the same range of enhanced rebates by satisfying what the Exchange believes to be similar criteria as the existing and proposed Cross-Asset Add Volume Tiers discussed above, or the existing Step-Up Tier under footnote 2 of the fee schedule.

Implementation Date

The Exchange proposes to implement these amendments to its fee schedule effective May 1, 2017.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with the objectives of Section 6 of the Act,[17] in general, and furthers the objectives of Section 6(b)(4),[18] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule changes reflect a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange

The Exchange believes adopting a definition of OCV and utilizing OCV in lieu of TCV for its Cross-Asset Tiers and its associated definitions is reasonable, fair and equitable, and non-discriminatory because the Exchange also proposed to modify the tier's related criteria in order to maintain substantially identical requirements to qualify for the tier. The Exchange notes that its affiliate, Bats EDGX Exchange, Inc. (''EDGX''), also uses OCV in lieu of TCV for cross-asset pricing.[19] Competitors of the Exchange also use similar calculations and the proposed qualifications do not represent a significant departure from such pricing structures.[20] The Exchange believes that the proposed qualifications are reasonable, fair and equitable, and non-discriminatory, and will provide additional transparency to Members regarding the calculations used to determine volume levels for purposes of the proposed tiered pricing model.

The Exchange believes that the proposed modifications to the tiered pricing structure are reasonable, fair and equitable, and non-discriminatory. The Exchange operates in a highly competitive market in which market participants may readily send order flow to many competing venues if they deem fees at the Exchange to be excessive or incentives provided to be insufficient. The proposed fee structure

[12] Fee code B is appended to displayed orders that add liquidity to BZX (Tape B) and is provided a standard rebate of $0.0025 per share. *See* the Exchange's fee schedule *available at http://www.bats.com/us/equities/membership/fee_schedule/bzx/.*

[13] Fee code V is appended to displayed orders that add liquidity to BZX (Tape A) and is provided a standard rebate of $0.0020 per share. *Id.*

[14] Fee code Y is appended to displayed orders that add liquidity to BZX (Tape C) and is provided a standard rebate of $0.0020 per share. *Id.*

[15] Fee code HA is appended to non-displayed orders that add liquidity and is provided a rebate of $0.0017 per share. *Id.*

[16] ''Tape B Step-Up Add TCV'' means ADAV in Tape B securities as a percentage of TCV in the relevant baseline month subtracted from current ADAV in Tape B securities as a percentage of TCV. *Id.*

[17] 15 U.S.C. 78f.

[18] 15 U.S.C. 78f(b)(4).

[19] *See* the EDGX fee schedule *available at http://www.bats.com/us/equities/membership/fee_schedule/edgx/.*

[20] NYSE Amex Options Customer volume tiers require a specific ''Customer Electronic ADV as a % of Industry Customer Equity and ETF Options ADV''. *https://www.nyse.com/publicdocs/nyse/markets/amexoptions/NYSE_Amex_Options_Fee_Schedule.pdf.* Nasdaq NOM Options Customer volume tiers require a specific percentage of ''total industry customer equity and ETF option average daily volume (''ADV'') contracts per day in a month.'' *http://www.nasdaqtrader.com/Micro.aspx?id=optionsPricing.*

remains intended to attract order flow to the Exchange by offering market participants a competitive pricing structure. The Exchange believes it is reasonable to offer and incrementally modify incentives intended to help to contribute to the growth of the Exchange. Volume-based pricing such as that proposed herein have been widely adopted by exchanges, including the Exchange, and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to: (i) The value to an exchange's market quality; (ii) associated higher levels of market activity, such as higher levels of liquidity provisions and/or growth patterns; and (iii) introduction of higher volumes of orders into the price and volume discovery processes. The proposed modifications proposed herein are also intended to incentivize additional Members to send orders to the Exchange in an effort to qualify for the enhanced rebate or reduced fee made available by the tiers, in turn contributing to the growth of the Exchange. Thus, the Exchange believes that the proposed modifications to the tiered pricing structure is a reasonable, fair and equitable, and not an unfairly discriminatory allocation of fees and rebates, because it will provide Members with an incentive to reach certain thresholds on the Exchange by contributing a meaningful amount of order flow to the Exchange. The Exchange believes the proposed change to each tier's criteria is consistent with the Act.

The Exchange believes that the proposed modifications to eliminate the Cross-Asset Step Up Tiers under footnote 3 is reasonable, fair, and equitable because the current tiers were not providing the desired result of incentivizing Members to increase their participation in BZX Equities and in BZX Options. Therefore, eliminating this tier will have a negligible effect on order flow and market behavior. The Exchange believes the proposed change is not unfairly discriminatory because it will apply equally to all participants. Further, as described above, the Exchange notes that Members that previously qualified for enhanced rebates under the Cross-Asset Step-Up Tier may achieve the same range of enhanced rebates by satisfying what the Exchange believes to be similar criteria as the existing and proposed Cross-Asset Add Volume Tiers discussed above, or the existing Step-Up Tier under footnote 2 of the fee schedule.

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. The Exchange does not believe that any of the proposed change to the Exchange's tiered pricing structure burden competition, but instead, that they enhance competition as they are intended to increase the competitiveness of the Exchange by modifying pricing incentives in order to attract order flow and incentivize participants to increase their participation on the Exchange. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures to be unreasonable or excessive. The proposed changes are generally intended to enhance the rebates for liquidity added to the Exchange, which is intended to draw additional liquidity to the Exchange, and to eliminate a rebate that has not achieved its desired result. The Exchange does not believe the proposed amendments would burden intramarket competition as they would be available to all Members uniformly.

B. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [21] and paragraph (f) of Rule 19b–4 thereunder.[22] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the 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 No. SR–BatsBZX–2017–28 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BatsBZX–2017–28. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BatsBZX–2017–28, and should be submitted on or before June 6, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Eduardo A. Aleman,

Assistant Secretary.

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[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80645; File No. SR–BatsBYX–2017–12]

Self-Regulatory Organizations; Bats BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees

May 10, 2017

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 9, 2017, Bats BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members [5] and non-Members of the Exchange pursuant to BYX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule to: (i) Add a new tier under footnote 1, Add/Remove Volume Tiers; and (ii) modify its description of fee code PX.

Proposed New Tier

The Exchange currently offers four tiers under footnote 1, Add/Remove Volume Tiers that offer reduced fees for displayed orders that yield fee codes B,[6] V [7] and Y,[8] and an enhanced rebate for orders that add liquidity yielding fee codes BB,[9] N [10] and W.[11] The Exchange now proposes to add a new tier under footnote 1, to be known as Tier 4, under which a Member would be charged a reduced fee of $0.0016 per share on orders that yield fee codes B, V and Y, where that Member has an ADAV [12] greater than or equal to 0.25% of the TCV [13] and a Step-Up ADAV greater than or equal to 0.05% of the TCV from April 2017 baseline.[14]

In connection with this change, the Exchange proposes to add a definition of Step-Up ADAV to the ''Definitions'' section of the fee schedule. As proposed, ''Step-Up ADAV'' would be defined as ''ADAV in the relevant baseline month subtracted from current ADAV.'' The Exchange proposes to add this definition in connection with the new tier.

Fee Code PX

Fee code PX is appended to orders routed using the RMPL routing strategy [15] to destinations not covered by fee code PL [16] or destinations covered by routing strategy RMPT. Orders appended with fee code PX are changed a fee of $0.0012 per share. The Exchange proposes to amend the description of fee code PX in order to align it with the description of fee code PX on Bats' affiliate exchange, Bats EDGA Exchange, Inc. (''EDGA'').[17] As amended, the description of fee code PX would state ''[r]outed using RMPL routing strategy to a destination not covered by Fee Code PL, or routed using RMPT routing strategy.'' The Exchange notes that this change is purely clerical and does not amend the orders to which fee code PX is appended.

Implementation Date

The Exchange proposes to implement the above changes to its fee schedule immediately.[18]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[19] in general, and furthers the objectives of Section 6(b)(4),[20] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

Proposed New Tier

The Exchange believes that the proposed tier under footnote 1 is equitable and reasonable because such pricing programs reward a Member's growth pattern on the Exchange and such increased volume will allow the Exchange to continue to provide and potentially expand the its incentive

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

[6] Fee code B is appended to displayed orders that add liquidity to BYX (Tape B) and is assessed a fee of $0.0018 per share. *See* the Exchange's fee schedule *available at http://www.bats.com/us/equities/membership/fee_schedule/byx/.*

[7] Fee code V is appended to displayed orders that add liquidity to BYX (Tape A) and is assessed a fee of $0.0018 per share. *Id.*

[8] Fee code Y is appended to displayed orders that add liquidity to BYX (Tape C) and is assessed a fee of $0.0018 per share. *Id.*

[9] Fee code BB is appended to orders that remove liquidity from BYX (Tape B) and is assessed a rebate of $0.0010 per share. *Id.*

[10] Fee code N is appended to orders that remove liquidity from BYX (Tape C) and is assessed a rebate of $0.0010 per share. *Id.*

[11] Fee code W is appended to orders that remove liquidity from BYX (Tape A) and is assessed a rebate of $0.0010 per share. *See* the Exchange's fee schedule *available at http://www.bats.com/us/equities/membership/fee_schedule/byx/.*

[12] ''ADAV'' means average daily volume calculated as the number of shares added per day on a monthly basis. *Id.*

[13] ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply. *Id.*

[14] With the addition of proposed Tier 4 under footnote 1, the Exchange proposes to renumber current Tier 4 as Tier 5.

[15] *See* Securities Exchange Act Release No. 79603 (December 19, 2016), 81 FR 94440 (December 23, 2016) (SR–BatsBYX–2016–41) (''RMPL Filing'').

[16] Fee code PL is appended to orders routed to Bats BZX Exchange, Inc., Bats EDGX Exchange, Inc., New York Stock Exchange, Inc., NYSE Arca, Inc. and the NASDAQ Stock Market LLC using RMPL routing strategy, and is assessed a fee of $0.0030 per share. *See* the Exchange's fee schedule *available at http://www.bats.com/us/equities/membership/fee_schedule/byx/.*

[17] *See* EDGA's fee schedule *available at http://www.bats.com/us/equities/membership/fee_schedule/edga/.*

[18] The Exchange initially filed the proposed fee change on May 1, 2017. (ST–BatsBYX–2017–09) [sic]. On May 9, 2017, the Exchange withdrew the proposed fee change and submitted this filing.

[19] 15 U.S.C. 78f.

[20] 15 U.S.C. 78f(b)(4).

programs. The Exchange believes that providing incentives to Members that demonstrate an increase over their April 2017 Step-Up ADAV through the proposed tier offers an additional, flexible way to encourage Members to add liquidity to the Exchange. The Exchange believes that the proposed tier is reasonable, fair and equitable because the liquidity from the proposed tier also benefits all investors by deepening the Exchange's liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. The proposed definition of Step-Up Add ADV is also reasonable as it helps to describe the tier's required criteria and is identical to that adopted by other exchanges.[21] These pricing programs are also not unfairly discriminatory in that it is available to all Members.

In addition, volume-based fees such as that proposed herein have been widely adopted by exchanges and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to: (i) The value to an exchange's market quality; (ii) associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns; and (iii) the introduction of higher volumes of orders into the price and volume discovery processes. The Exchange believes that the proposed tier is a reasonable, fair and equitable, and not an unfairly discriminatory allocation of fees and rebates, because it will provide Members with an additional incentive to reach certain thresholds on the Exchange.

Fee Code PX

The Exchange believes that the proposed amendment to the description of fee code PX is reasonable and equitable because this change is purely clerical and does not amend the orders to which fee code PX is appended. The Exchange also believes that the proposal is non-discriminatory because it applies uniformly to all Members. The proposed change is intended to align it with the description of an identical fee code on Bats' affiliate exchange, EDGA.[22] Therefore, the Exchange believes that the proposed change will make the fee schedule clearer and eliminate potential investor confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

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. The Exchange does not believe that this change represents a significant departure from previous pricing offered by the Exchange or from pricing offered by the Exchange's competitors. The proposed rates would apply uniformly to all Members, and Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. Further, excessive fees would serve to impair an exchange's ability to compete for order flow and members rather than burdening competition. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

B. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [23] and paragraph (f) of Rule 19b–4 thereunder.[24] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the 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 No. SR–BatsBYX–2017–12 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BatsBYX–2017–12. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BatsBYX–2017–12, and should be submitted on or before June 6, 2017.

[21] *See* the Bats BZX Exchange, Inc., fee schedule *available at http://www.bats.com/us/equities/membership/fee_schedule/bzx/.*

[22] *See* EDGA's fee schedule *available at http://www.bats.com/us/equities/membership/fee_schedule/edga/.*

[23] 15 U.S.C. 78s(b)(3)(A).

[24] 17 CFR 240.19b–4(f).

[25] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–09817 Filed 5–15–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80646; File No. SR–FINRA–2017–010]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend FINRA Rule 6191 To Modify the Date of Appendix B Web Site Data Publication Pursuant to the Regulation NMS Plan To Implement a Tick Size Pilot Program

May 10, 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 April 28, 2017, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend Rule 6191 to modify the date of Appendix B Web site data publication pursuant to the Regulation NMS Plan to Implement a Tick Size Pilot Program (''Plan'').

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule 6191(b) (Compliance with Data Collection Requirements)[4] implements the data collection and Web site publication requirements of the Plan.[5] Rule 6191.12 currently provides, among other things, that the requirement that FINRA make certain data for the Pre-Pilot Period and Pilot Period[6] publicly available on the FINRA Web site pursuant to Appendix B to the Plan shall commence on April 28, 2017.[7] FINRA is proposing to amend Rule 6191.12 to delay the Appendix B data Web site publication date until August 31, 2017. FINRA is proposing to further delay the Web site publication of Appendix B data until August 31, 2017 to permit additional time to consider a methodology to mitigate concerns raised in connection with the publication of Appendix B data.[8]

Pursuant to this proposed amendment, FINRA would publish the required Appendix B data for the Pre-Pilot Period through April 30, 2017, by August 31, 2017. Thereafter, Appendix B data for a given month would be published within 120 calendar days following month end.[9] Thus, for example, Appendix B data for May 2017 would be made available on the FINRA Web site by September 28, 2017, and data for the month of June 2017 would be made available on the FINRA Web site by October 28, 2017.

FINRA has filed the proposed rule change for immediate effectiveness. The operative date of the proposed rule change will be the date of filing.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[10] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(b)(9) of the Act,[11] which requires that FINRA rules not impose any burden on competition that is not necessary or appropriate.

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stock of small-capitalization companies. FINRA believes that this proposal is consistent with the Act because it is in furtherance of the objectives of Section VII(A) of the Plan in that it is designed to provide FINRA with additional time to consider a methodology to mitigate concerns raised in connection with the publication of Appendix B data.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance

[4] *See* FINRA Rule 6191. *See also* Securities Exchange Act Release No. 76484 (November 19, 2015), 80 FR 73858 (November 25, 2015) (Notice of Filing of File No. SR–FINRA–2015–048); and Securities Exchange Act Release No. 77164 (February 17, 2016), 81 FR 9043 (February 23, 2016) (Notice of Filing of Partial Amendment No. 1 and Order Granting Accelerated Approval of File No. SR–FINRA–2015–048).

[5] The Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014. *See* Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014 (''SRO Tick Size Plan Proposal''). *See* Securities Exchange Act Release No. 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014); *see also* Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015).

[6] Unless otherwise defined herein, capitalized terms have the meaning ascribed to them in Rule 6191.

[7] *See* FINRA Rule 6191.12. *See also* Securities Exchange Act Release No. 80179 (March 8, 2017), 82 FR 13698 (March 14, 2017) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2017–005). *See also* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Robert L.D. Colby, Executive Vice President and Chief Legal Officer, FINRA, dated February 28, 2017.

[8] On March 3, 2017, FINRA filed a proposed rule change to implement an anonymous, grouped masking methodology for Appendix B.I, B.II. and B.IV. data. The comment period ended on April 5, 2017, and the Commission received three comment letters. *See* Securities Exchange Act Release No. 80193 (March 9, 2017) 82 FR 13901 (March 15, 2017) (Notice of Filing of File No. SR–FINRA–2017–006).

[9] FINRA also is submitting an exemptive request to the SEC in connection with the instant filing.

[10] 15 U.S.C. 78*o*–3(b)(6).

[11] 15 U.S.C. 78*o*–3(b)(9).

of the purposes of the Act. FINRA notes that the proposed rule change implements the provisions of the Plan.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13]

A proposed rule change filed under Rule 19(b)–4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. FINRA has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing so that it may become operative on the date of filing.

FINRA notes that the proposed rule change is intended to mitigate confidentiality concerns raised in connection with Section VII(A) of the Plan, which provides that the data made publicly available will not identify the Trading Center that generated the data. FINRA states that the additional time would allow consideration of a methodology to mitigate concerns related to the publication of Appendix B data.[14]

The commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will provide FINRA with additional time to develop the necessary systems changes to implement the anonymous, grouped masking methodology for Appendix B data related to OTC trading activity.[15] Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative on the date of 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 should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2017–010 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2017–010. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2017–010 and should be submitted on or before June 6, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–09818 Filed 5–15–17; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] The Commission recently approved a FINRA proposal to implement an aggregated, anonymous grouped masking methodology for the publication of Appendix B data related to OTC trading activity. *See* Securities Exchange Release No. 80551, (April 28, 2017), 82 FR 20948 (May 4, 2017). *See also* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Marcia E. Asquith, Executive Vice President FINRA, dated April 28, 2017.

[15] The Commission recently granted exemptive relief to the Participants to delay the publication of their Appendix B data until August 31, 2017. *See* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Jennifer Piorko Mitchell, Vice President and Deputy Corporate Secretary, FINRA, dated April 28, 2017. The Commission notes that other Participants have submitted proposed rule changes to delay the publication of Appendix B data until August 31, 2017. *See e.g.,* SR–BatsBYX–2017–10; SR–BatsBZX–2017–31; SR–BatsEDGA–2017–10; SR–BatsEDGX–2017–19; SR–BX–2017–022; SR–CHX–2017–07; SR–IEX–2017–12; SR–NASDAQ–2017–044; SR–Phlx–2017–33; SR–NYSE–2017–19; SR–NYSEArca–2017–49; SR–NYSEMKT–2017–24.

[16] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80648; File No. SR–NYSEMKT–2017–24]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amend Rule 67-Equities To Modify the Date of Appendix B Web Site Data Publication Pursuant to the Regulation NMS Plan To Implement a Tick Size Pilot Program

May 10, 2017.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on April 27, 2017, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 67-Equities to modify the date of Appendix B Web site data publication pursuant to the Regulation NMS Plan to Implement a Tick Size Pilot Program (''Plan''). The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule 67(b)-Equities (Compliance with Data Collection Requirements) [4] implements the data collection and Web site publication requirements of the Plan.[5] Supplementary Material .70 to Rule 67-Equities provides, among other things, that the requirement that the Exchange or their DEA make certain data for the Pre-Pilot Period and Pilot Period [6] publicly available on the Exchange's or DEA's Web site pursuant to Appendix B to the Plan shall commence on April 28, 2017.[7] The Exchange is proposing to amend Supplementary Material .70 to Rule 67-Equities to delay the Appendix B data Web site publication date until August 31, 2017. The Exchange is proposing to further delay the Web site publication of Appendix B data until August 31, 2017 to permit additional time to consider a methodology to mitigate concerns raised in connection with the publication of Appendix B data.[8]

Pursuant to this proposed amendment, the Exchange would publish the required Appendix B data for the Pre-Pilot Period through April 30, 2017, by August 31, 2017. Thereafter, Appendix B data for a given month would be published within 120 calendar days following month end.[9] Thus, for example, Appendix B data for May 2017 would be made available on the Exchange's or DEA's Web site by September 28, 2017, and data for the month of June 2017 would be made available on the Exchange's or DEA's Web site by October 28, 2017.

As noted in Item 2 of this filing, the Exchange has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the 30-day operative delay. If the Commission waives the 30-day operative delay, the operative date of the proposed rule change will be the date of filing.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stock of small-capitalization companies. The Exchange believes that this proposal is consistent with the Act because it is in furtherance of the objectives of Section VII(A) of the Plan in that it is designed to provide the Exchange with additional time to consider a methodology to mitigate concerns raised in connection with the publication of Appendix B data.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements the provisions of the Plan, and is designed to assist the Participants in meeting their regulatory obligations pursuant to the Plan.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section

[4] *See* Securities Exchange Act Release No. 77478 (March 30, 2016), 81 FR 19665 (April 5, 2016) (Immediate Effectiveness of Proposed Rule Change Adopting Requirements for the Collection and Transmission of Data Pursuant to Appendices B and C of Regulation NMS Plan to Implement a Tick Size Pilot Program) (SR–NYSEMKT–2016–40); *see also* Securities Exchange Act Release No. 78817 (September 12, 2016), 81 FR 63811 (September 16, 2016) (Immediate Effectiveness of Proposed Rule Change to Amend Rule 67-Equities to Modify Certain Data Collection Requirements of the Regulation NMS Plan to Implement a Tick Size Pilot Program) (SR–NYSEMKT–2016–84); *see also* Letter from John C. Roeser, Associate Director, Division of Trading and Markets, Commission, to Sherry Sandler, Associate General Counsel, NYSE MKT, dated April 4, 2016.

[5] The Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014. *See* Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014 (''SRO Tick Size Plan Proposal''). *See* Securities Exchange Act Release No 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014); *see also* Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015).

[6] Unless otherwise defined herein, capitalized terms have the meaning ascribed to them in the Plan.

[7] *See* Supplementary Material .70 to Rule 67-Equities. *See also* Securities Exchange Act Release No. 80178 (March 8, 2017), 82 FR 13700 (March 14, 2017). *See also* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Robert L.D. Colby, Executive Vice President and Chief Legal Officer, FINRA, dated February 28, 2017.

[8] On March 3, 2017, FINRA filed a proposed rule change to implement an anonymous, grouped masking methodology for Appendix B.I, B.II. and B.IV. data. The comment period ended on April 5, 2017, and the Commission received three comment letters. *See* Securities Exchange Act Release No. 80193 (March 9, 2017) 82 FR 13901 (March 15, 2017).

[9] FINRA also submitted an exemptive request, on behalf of all Participants, to the SEC in connection with the instant filing.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13]

A proposed rule change filed under Rule 19(b)–4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing so that it may become operative on the date of filing.

The Exchange notes that the proposed rule change is intended to mitigate confidentiality concerns raised in connection with Section VII(A) of the Plan, which provides that the data made publicly available will not identify the Trading Center that generated the data. The Exchange states that the additional time would allow consideration of a methodology to mitigate concerns related to the publication of Appendix B data.[14]

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will synchronize the timing for publication of Appendix B data for all Participants, which should enhance the consistency and usefulness of the data.[15] Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative on the date of filing.[16]

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] The Commission recently approved a FINRA proposal to implement an aggregated, anonymous grouped masking methodology for the publication of Appendix B data related to OTC trading activity. *See* Securities Exchange Release No. 80551, (April 28, 2017), 82 FR 20948 (May 4, 2017). *See also* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Marcia E. Asquith, Executive Vice President FINRA, dated April 28, 2017.

[15] The Commission recently granted exemptive relief to the Participants delay the publication of their Appendix B data until August 31, 2017. *See* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Jennifer Piorko Mitchell, Vice President and Deputy Corporate Secretary, FINRA, dated April 27, 2017. The Commission notes that other Participants have submitted proposed rule changes to delay the publication of Appendix B data until August 31, 2017. *See e.g.,* SR–BatsBYX–2017–10; SR–BatsEDGA–2017–10; SR–BatsEDGX–2017–19; SR–BX–2017–022; SR–CHX–2017–07; SR–FINRA–2017–010; SR–IEX–2017–12; SR–NASDAQ–2017–044; SR–Phlx–2017–33; SR–NYSE–2017–19; SR–NYSEArca–2017–49.

[16] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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 should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2017–24 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2017–24. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2017–24 and should be submitted on or before June 6, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–09820 Filed 5–15–17; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32632; 812–14713]

Sierra Total Return Fund, et al.

May 10, 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)(3) 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 distribution and shareholder service fees and early withdrawal charges.

Applicants: Sierra Total Return Fund (''STRF''), STRF Advisors LLC (''STRF Advisors''), Sierra Opportunity Fund (''SOF''), and SOF Advisors LLC (''SOF Advisors'').

Filing Dates: The application was filed on October 31, 2016 and amended on March 8, 2017 and April 18, 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 June 5, 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: 280 Park Ave., 6th Floor East, New York, NY 10017.

FOR FURTHER INFORMATION CONTACT: Hae-Sung Lee, Attorney-Adviser, at (202) 551–7345, or Robert H. Shapiro, 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 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. STRF is a Delaware statutory trust that is registered under the Act as a continuously offered, non-diversified, closed-end management investment company. STRF's primary investment objective is to seek total return through a combination of current income and long-term capital appreciation by investing in a portfolio of debt securities and equities.

2. STRF Advisors is a Delaware limited liability company and is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). STRF Advisors serves as investment adviser to STRF.

3. SOF is a Delaware statutory trust that is registered under the Act as a continuously offered, non-diversified, closed-end management investment company. SOF's primary investment objective is to generate current income and, as a secondary objective, long-term capital appreciation.

4. SOF Advisors is a Delaware limited liability company and is registered as an investment adviser under the Advisers Act. SOF Advisors serves as investment adviser to SOF.

5. The applicants seek an order to permit the Funds (as defined below) to issue multiple classes of shares, each having its own fee and expense structure and to impose early withdrawal charges and asset-based distribution and shareholder service fees with respect to certain classes.

6. Applicants request that the order also apply to any continuously-offered registered closed-end management investment company that has been previously organized or that may be organized in the future for which STRF Advisors, SOF Advisors or any entity controlling, controlled by, or under common control with STRF Advisors and SOF Advisors, 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 STRF and SOF, the ''Funds'').[2]

7. Each Fund intends to engage in a continuous offering of its shares of beneficial interest. 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 publicly traded. There is currently no secondary market for the Funds' shares and the Funds expect that no secondary market will develop.

8. If the requested relief is granted, STRF and SOF will offer Class A, Class T, Class I, Class S, and Class L shares, with each class having its own fee and expense structure, and may also offer additional classes of shares in the future. Because of the different distribution and/or shareholder services fees, services and any other class expenses that may be attributable to each of STRF's and SOF's Class A, Class T, Class I, Class S, and Class L shares, the net income attributable to, and the dividends payable on, each class of shares may differ from each other.

9. Applicants state that, from time to time, the Funds may create additional classes of shares, the terms of which may differ from Class A, Class T, Class I, Class S, and Class L shares in the following respects: (i) The amount of fees permitted by different distribution plans or different shareholder services fee arrangements; (ii) voting rights with respect to a distribution and/or shareholder services 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 and/or shareholder services plan or in class expenses; (vi) any early withdrawal charge or other sales load structure; and (vii) exchange or conversion privileges of the classes as permitted under the Act.

10. Applicants state that each of STRF and SOF has adopted a fundamental policy to repurchase a specified percentage of its shares (no less than 5% and not more than 25%) at net asset value on a quarterly basis and on an annual basis, respectively. Such repurchase offers will be conducted pursuant to rule 23c–3 under the Act. Each of the other Funds will likewise adopt fundamental investment policies in compliance with rule 23c–3 and make repurchase offers to its shareholders at periodic intervals and/or provide periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Exchange Act.[3] Any repurchase offers made by the Funds will be made to all holders of shares of each such Fund.

11. Applicants represent that any asset-based shareholder services and distribution fees for each class of shares will comply with the provisions of FINRA Rule 2341(d) (''FINRA 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.[5] 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.[6] In addition, applicants will

[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.

[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, as amended.

[4] All references in the application to the FINRA Sales Charge Rule include any Financial Industry Regulatory Authority successor or replacement rule to the FINRA Sales Charge Rule.

[5] In all respects other than class-by-class disclosure, each Fund will comply with the requirements of Form N–2.

[6] *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

Continued

comply with applicable enhanced fee disclosure requirements for fund of funds, including registered funds of hedge funds.[7]

12. 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.

13. 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, shareholder 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.

14. Applicants state that each Fund may impose an early withdrawal charge on shares submitted for repurchase that have been held less than a specified period and may waive the early withdrawal charge for certain categories of shareholders or transactions to be established from time to time. Applicants state that each of the Funds will apply the early withdrawal charge (and any waivers or scheduled variations of the early withdrawal charge) 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.

15. 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 early withdrawal charge as if it were a contingent deferred sales load.

Applicants' Legal Analysis

Multiple Classes of Shares

1. Section 18(a)(2) of the Act provides that a closed-end investment company may not issue or sell a senior security that is a stock unless certain requirements are met. 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. 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

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).

[7] 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.

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 early withdrawal charges on shares of the Funds submitted for repurchase that have been held for less than a specified period.

5. Applicants state that the early withdrawal charges they intend to impose are functionally similar to contingent deferred sales loads imposed by open-end investment companies under rule 6c–10 under the Act. Rule 6c–10 permits open-end investment companies to impose contingent deferred sales loads, subject to certain conditions. Applicants note that rule 6c–10 is grounded in policy considerations supporting the employment of contingent deferred sales loads where there are adequate safeguards for the investor and state that the same policy considerations support imposition of early withdrawal charges in the interval fund context. In addition, applicants state that early withdrawal charges may be necessary for the distributor to recover distribution costs. Applicants represent that any early withdrawal charge 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 early withdrawal charges in accordance with the requirements of Form N–1A concerning contingent deferred sales loads.

Asset-Based Distribution and Shareholder Service 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 Fund to impose asset-based distribution and shareholder service 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 distribution fees.

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 distribution and shareholder service 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 FINRA 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. 2017–09790 Filed 5–15–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80649; File No. SR–GEMX–2017–07]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish INET Ports

May 10, 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 April 27, 2017, Nasdaq GEMX, LLC (''GEMX'' 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 establish ports that members use to connect to the Exchange with the migration of the Exchange's trading system to the Nasdaq INET architecture.

The text of the proposed rule change is available on the Exchange's Web site at *www.ise.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.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to establish ports that members use to connect to the Exchange with the migration of the Exchange's

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

trading system to the Nasdaq INET architecture.[3] In particular, the Exchange proposes to establish the following connectivity options that are available in connection with the re-platform of the Exchange's trading system: Specialized Quote Feed (''SQF''), SQF Purge, Ouch to Trade Options (''OTTO''), Clearing Trade Interface (''CTI''), Financial Information eXchange (''FIX''), FIX Drop, Disaster Recovery, and Market Data. These connectivity options, which are described in more detail below, are the same as connectivity options currently used to connect to the Exchange's affiliates, including Nasdaq Phlx (''Phlx''), Nasdaq Options Market (''NOM''), and Nasdaq BX (''BX'').[4] The Exchange recently filed a proposed rule change to adopt fees for its port offerings, which are currently offered free of charge,[5] and is filing this proposed rule change to establish the ports themselves.

1. Specialized Quote Feed

SQF is an interface that allows market makers to connect and send quotes, sweeps and auction responses into the Exchange. Data includes the following: (1) Options Auction Notifications (*e.g.,* opening imbalance, Flash, PIM, Solicitation and Facilitation or other information); (2) Options Symbol Directory Messages; (3) System Event Messages (*e.g.,* start of messages, start of system hours, start of quoting, start of opening); (4) Option Trading Action Messages (*e.g.,* halts, resumes); (5) Execution Messages (6) Quote Messages (quote/sweep messages, risk protection triggers or purge notifications).

2. SQF Purge

SQF Purge is a specific port for the SQF interface that only receives and notifies of purge requests from the market maker. Dedicated SQF Purge Ports enable market makers to seamlessly manage their ability to remove their quotes in a swift manner.

3. Ouch to Trade Options

OTTO is an interface that allows market participants to connect and send orders, auction orders and auction responses into the Exchange. Data includes the following: (1) Options Auction Notifications (*e.g.,* Flash, PIM, Solicitation and Facilitation or other information); (2) Options Symbol Directory Messages; (3) System Event Messages (*e.g.,* start of messages, start of system hours, start of quoting, start of opening); (5) Option Trading Action Messages (*e.g.,* halts, resumes); (6) Execution Messages (7) Order Messages (order messages, risk protection triggers or purge notifications).

4. Clearing Trade Interface

CTI is a real-time clearing trade update is a message that is sent to a member after an execution has occurred and contains trade details. The message containing the trade details is also simultaneously sent to The Options Clearing Corporation. The information includes, among other things, the following: (i) The Clearing Member Trade Agreement or ''CMTA'' or The Options Clearing Corporation or ''OCC'' number; (ii) Exchange badge or house number; (iii) the Exchange internal firm identifier; and (iv) an indicator which will distinguish electronic and non-electronically delivered orders; (v) liquidity indicators and transaction type for billing purposes; (vi) capacity

5. Financial Information eXchange

FIX is an interface that allows market participants to connect and send orders and auction orders into the Exchange. Data includes the following: (1) Options Symbol Directory Messages; (2) System Event Messages (*e.g.,* start of messages, start of system hours, start of quoting, start of opening); (3) Option Trading Action Messages (*e.g.,* halts, resumes); (4) Execution Messages (5) Order Messages (order messages, risk protection triggers or purge notifications).

6. FIX Drop

FIX Drop is a real-time order and execution update is a message that is sent to a member after an order been received/modified or an execution has occurred and contains trade details. The information includes, among other things, the following: (1) Executions (2) cancellations (3) modifications to an existing order (4) busts or post-trade corrections.

7. Disaster Recovery

Disaster Recovery ports provide connectivity to the exchange's disaster recovery data center in Chicago to be utilized in the event the exchange has to fail over during the trading day. DR Ports are available for SQF, SQF Purge, CTI, OTTO, FIX and FIX Drop.

8. Market Data

Market Data ports provide connectivity to the Exchange's proprietary market data feeds, including the Nasdaq GEMX Real-time Depth of Market Raw Data Feed (''Depth of Market Feed''),[6] the Nasdaq GEMX Order Feed (''Order Feed''),[7] the Nasdaq GEMX Top Quote Feed (''Top Quote Feed''),[8] and the Nasdaq GEMX Trades Feed (''Trades Feed'').[9] The Depth Feed, Order Feed, and Top Quote Feed have each previously been established as market data offerings of the Exchange,[10] and market participants are charged for subscriptions to these products.[11] The Trades Feed is a free market data product provided to subscribers of at least one of the fee liable market data products described above. In connection with the adoption of Market Data ports described above, the Exchange further proposes to establish the Trades Feed. Market Data ports are available via multicast, TCP, or as an intra-day snapshot, except that the intra-day snapshot option is available solely for the Depth of Market Feed and Top Quote Feed. In connection with the adoption of Market Data ports, which

[3] *See* Securities Exchange Act Release No. 80011 (February 10, 2017), 82 FR 10927 (February 16, 2017) (SR–ISEGemini–2016–17).

[4] *See* Phlx Pricing Schedule, VII. Other Member Fees, B. Port Fees; NOM Rules, Chapter XV Options Pricing, Sec. 3 NOM—Ports and other Services; BX Rules, Chapter XV Options Pricing, Sec. 3 BX—Ports and other Services.

[5] *See* Securities Exchange Act Release No. 80213 (March 10, 2017), 82 FR 14066 (March 16, 2017) (SR–ISEGemini–2017–10).

[6] The Depth Feed, provides aggregate quotes and orders at the top five price levels on the Exchange, and provides subscribers with a consolidated view of tradable prices beyond the BBO, showing additional liquidity and enhancing transparency for GEMX traded options. The data provided for each instrument includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and trading status. In addition, subscribers are provided with total quantity, customer quantity (if present), price, and side (*i.e.,* bid/ask). This information is provided for each of the five indicated price levels on the Depth Feed. The feed also provides participants of imbalances on opening/reopening.

[7] The Order Feed provides information on new orders resting on the book. In addition, the feed also announces auctions. The data provided for each instrument includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and trading status. The feed also provides participants of imbalances on opening/reopening.

[8] The Top Quote Feed calculates and disseminates its best bid and offer position, with aggregated size (Total & Customer), based on displayable order and quote interest in the options market system. The feed also provides last trade information along with opening price, cumulative volume, high and low prices for the day. The data provided for each instrument includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and trading status.

[9] The Trades Feed displays last trade information along with opening price, cumulative volume, high and low prices for the day. The data provided for each instrument includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and trading status.

[10] *See* Securities Exchange Act Release No. 71087 (December 17, 2013), 78 FR 77545 (December 23, 2013) (SR–Topaz–2013–17).

[11] *See* GEMX Schedule of Fees, Section V., Market Data.

will provide connectivity to the four market data feeds described above, the Exchange also proposes to remove references to ITCH-to-Trade Options (''ITTO'') ports from the Schedule of Fees and replace them with references to Market Data ports. ITTO is currently defined as a port that provides connectivity to the Depth Feed. As noted above, Market Data ports will provide access to Depth Feed along with the Order Feed, Top Quote Feed, and Trades Feed.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act'') [12] in general, and furthers the objectives of Section 6(b)(5) of the Act [13] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest as it establishes various ports used to connect to the GEMX INET trading system. The Exchange's port offerings are changing with the re-platform as the ports used by INET differ from the ports used to connect to the T7 trading system. Market participants that connect to the INET trading system may use the following ports mentioned above: SQF, SQF Purge, OTTO, CTI, FIX, FIX Drop, Disaster Recovery, and Market Data. These ports are the same as ports currently used by the Exchange's affiliates, and therefore offer a familiar experience for market participants. The ports described in this filing provide a range of important features to market participants, including the ability to submit orders and quotes, receive market data, and perform other functions necessary to manage trading on the Exchange. The Exchange recently adopted port fees for the ports described in this filing, and believes that filing separately to establish these ports will increase transparency to market participants regarding connectivity options provided by the Exchange.

The Exchange also believes that it is consistent with the protection of investors and public interest to establish the Trades Feed as this feed, which is currently provided free of charge, provides valuable trade information to subscribers. The Trades Feed designed to promote just and equitable principles of trade by providing all subscribers with data that should enable them to make informed decisions on trading in GEMX options by using the data to assess current market conditions that directly affect such decisions. The market data provided by this feed removes impediments to, and is designed to further perfect, the mechanisms of a free and open market and a national market system by making the GEMX market more transparent and accessible to market participants making routing decisions concerning their options orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[14] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As explained above, the Exchange is establishing the ports used to connect to the GEMX INET trading system. The Exchange does not believe that establishing these ports, which are currently offered free of charge, will have any competitive impact. Similarly, the exchange does not believe that establishing the Trades Feed, which is also a free offering, will have any competitive impact.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [15] and subparagraph (f)(6) of Rule 19b–4 thereunder.[16]

In its filing, GEMX requested that the Commission waive the 30-day operative delay in order to enable the Exchange to more quickly establish the Trades Feed and the ports used by members to connect to the Exchange's INET trading system. The Commission believes that such waiver is consistent with the protection of investors and the public interest. GEMX noted that its members have received numerous communications regarding the availability of the new port offerings, which are the same as the connectivity options used to connect to the Exchange's affiliates; in fact, members are already using these ports to connect to INET. Similarly, GEMX explained that the proposed Trades Feed has already been disclosed to members and that subscribers to GEMX market data have already been given access to the proposed Trades Feed. To avoid disrupting member usage of GEMX connectivity and data options, the Commission designates the proposed rule change to be operative upon filing.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–GEMX–2017–07 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.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78f(b)(8).

[15] 15 U.S.C. 78s(b)(3)(A)(iii).

[16] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[17] 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).

All submissions should refer to File Number SR–GEMX–2017–07. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–GEMX–2017–07 and should be submitted on or before June 6, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–09821 Filed 5–15–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80640; File No. SR–BX–2017–013]

Self-Regulatory Organizations; NASDAQ BX, Inc.; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Shorten the Settlement Cycle From T+3 to T+2

May 10, 2017.

I. Introduction

On March 9, 2017, NASDAQ BX, 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 conform its rules to an amendment proposed by the Commission to Rule 15c6–1(a)[3] under the Act to shorten the standard settlement cycle for most broker-dealer transactions from three business days after the trade date (''T+3'') to two business days after the trade date (''T+2'').[4] On March 13, 2017, the Exchange filed Amendment No. 1 to the proposed rule change.[5] On March 22, 2017, the Commission adopted an amendment to Rule 15c6–1(a) under the Act to shorten the standard settlement cycle to T+2 and set a compliance date of September 5, 2017.[6] The Exchange's proposed rule change, as modified by Amendment No.1, was published for comment in the **Federal Register** on March 27, 2017.[7] The Commission did not receive any comment letters on the proposed rule change, as modified by Amendment No. 1. This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposal, as Modified by Amendment No. 1

The Exchange proposes to amend Exchange Rules 11140 (Transactions in Securities ''Ex-Dividend,'' ''Ex-Rights'' or ''Ex-Warrants''), 11150 (Transactions ''Ex-Interest'' in Bonds Which Are Dealt in ''Flat''), 11210 (Sent by Each Party), 11320 (Dates of Delivery), 11620 (Computation of Interest), and IM–11810 (Sample Buy-In Forms), to conform to the Commission's proposed amendment to Rule 15c6–1(a) under the Act that would shorten the standard settlement cycle for most broker-dealer transactions from T+3 to T+2.

Exchange Rule 11140(b)(1) concerns the determination of normal ex-dividend and ex-warrants dates for certain types of dividends and distributions. Currently, with respect to cash dividends or distributions, or stock dividends, and the issuance or distribution of warrants, which are less than 25% of the value of the subject security, if the definitive information is received sufficiently in advance of the record date, the date designated as the ''ex-dividend date'' is the second business day preceding the record date if the record date falls on a business day, or the third business day preceding the record date if the record date falls on a day designated by the Exchange's Regulation Department as a non-delivery day. Under the proposal, the ''ex-dividend date'' would be the first business day preceding the record date if the record date falls on a business day, or the second business day preceding the record date if the record date falls on a day designated by the Exchange's Regulation Department as a non-delivery date.

Exchange Rule 11150(a) concerns the determination of normal ex-interest dates for certain types of transactions. Currently, all transactions, except ''cash'' transactions, in bonds or similar evidences of indebtedness which are traded ''flat'' are ''ex-interest'' on the second business day preceding the record date if the record date falls on a business day, on the third business day preceding the record date if the record date falls on a day other than a business day, and on the third business day preceding the date on which an interest payment is to be made if no record date has been fixed. Under the proposal, these transactions would be ''ex-interest'' on the first business day preceding the record date if the record date falls on a business day, on the second business day preceding the record date if the record date falls on a day other than a business day, and on the second business day preceding the date on which an interest payment is to be made if no record date has been fixed.

Exchange Rules 11210(c) and (d) set forth ''DK'' procedures using ''Don't Know Notices'' and other forms of notices, respectively.[8] Exchange Rule 11210(c) currently provides that, when a party to a transaction sends a comparison or confirmation of a trade, but does not receive a comparison or confirmation or a signed DK from the contra-member by the close of four business days following the trade date of the transaction, the party may use the procedures set forth in the rule. The Exchange proposes to shorten the ''four business days'' time period to one business day. Exchange Rule 11210(c)(2)(A) currently provides that a contra-member has four business days

[18] 17 CFR 200.30–3(a)(12) and (59).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.15c6–1(a).

[4] *See* Securities Exchange Act Release No. 78962 (September 28, 2016), 81 FR 69240 (October 5, 2016) (Amendment to Securities Transaction Settlement Cycle) (File No. S7–22–16).

[5] In Amendment No. 1, the Exchange proposes to capitalize the letter ''d'' in the word ''department'' in the proposed revisions to Rule 11140(b)(1), as set forth in Exhibit 5 to the filing, to conform to the Exchange's current rule text.

[6] *See* Securities Exchange Act Release No. 80295 (March 22, 2017), 82 FR 15564 (March 29, 2017) (''SEC Adopting Release'').

[7] *See* Securities Exchange Act Release No. 80282 (March 21, 2017), 82 FR 15258.

[8] Exchange Rule 11210 does not apply to transactions that clear through the National Securities Clearing Corporation or other clearing organizations registered under the Act. *See* Exchange Rule 11210(a)(4).

after the ''Don't Know Notice'' is received to either confirm or DK the transaction in accordance with Exchange Rule 11210(c)(2)(B) or (C). The Exchange proposes to shorten the ''four business days'' time period to two business days.[9] Exchange Rule 11210(c)(3) currently provides that if the confirming member does not receive a response from the contra-member by the close of four business days after receipt by the confirming member the fourth copy of the ''Don't Know Notice'' if delivered by messenger, or the post office receipt if delivered by mail, such shall constitute a DK and the confirming member shall have no further liability for the trade. The Exchange proposes to shorten the ''four business days'' time period to two business days.

The Exchange proposes similar changes to Exchange Rule 11210(d). Exchange Rule 11210(d) currently provides that, when a party to a transaction sends a comparison or confirmation of a trade, but does not receive a comparison or confirmation or a signed DK from the contra-member by the close of four business days following the date of the transaction, the party may use the procedures set forth in the rule. The Exchange proposes to shorten the ''four business days'' time period to one business day. Exchange Rule 11210(d)(5) currently provides that if the confirming member does not receive a response in the form of a notice from the contra-member by the close of four business days after receipt of the confirming member's notice, such shall constitute a DK and the confirming member shall have no further liability. The Exchange proposes to shorten the ''four business days'' time period to two business days.

Exchange Rule 11320 prescribes delivery dates for various types of transactions. Exchange Rule 11320(b) currently provides that in connection with a transaction ''regular way,'' delivery is made at the office of the purchaser on, but not before, the third business day following the date of the transaction. Under the proposal, delivery would be required to be made on, but not before, the second business day following the date of the transaction. Exchange Rule 11320(c) currently provides in part that, in connection with a transaction ''seller's option,'' delivery may be made by the seller on any business day after the third business day following the date of transaction and prior to the expiration of the option, provided the seller delivers at the office of the purchaser, on a business day preceding the day of delivery, written notice of intention to deliver. Under the proposal, delivery may be made by the seller on any business day after the second business day following the date of the transaction and prior to expiration of the option.[10]

Exchange Rule 11620 governs the computation of interest. Exchange Rule 11620(a) currently provides in part that, in the settlement of contracts in interest-paying securities other than for ''cash,'' there shall be added to the dollar price interest at the rate specified in the security, which shall be computed up to but not including the third business day following the date of the transaction. Under the proposal, the interest would be computed up to but not including the second business day following the date of the transaction.[11]

Exchange Rule IM–11810(i)(1)(A) sets forth the circumstances under which a receiving member may deliver a Liability Notice to the delivering member as an alternative to the close-out procedures set forth in Exchange Rule IM–11810(a)–(g). Currently, when the parties to a contract are not both participants in a registered clearing agency that has an automated service for notifying a failing party of the liability that will be attendant to a failure to deliver, the notice must be issued using written or comparable electronic media having immediate receipt capabilities ''no later than one business day prior to the latest time and the date of the offer or other event'' in order to obtain the protection provided by the rule. Under the proposal, the notice must be ''sent as soon as practicable but not later than two hours prior to the cutoff time set forth in the instructions on a specific offer or other event'' in order to obtain the protection provided by the rule.

The Exchange represents that it will announce the operative date of the proposed rule change in an Equity Regulatory Alert, which date would correspond with the industry-led transition to a T+2 standard settlement, and the compliance date of the amendment to Rule 15c6–1(a) under the Act.[12]

III. Discussion and Commission's Findings

After careful review of the proposed rule change, as modified by Amendment No. 1, the Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange.[13] Specifically, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,[14] which requires that the rules of a national securities exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

The Commission notes that the proposed rule change, as modified by Amendment No. 1, would amend Exchange rules to conform to the amendment that the Commission has adopted to Rule 15c6–1(a) under the Act[15] and support a move to a T+2 standard settlement cycle. In the SEC Adopting Release, the Commission stated its belief that shortening the standard settlement cycle from T+3 to T+2 will result in a reduction of credit, market, and liquidity risk,[16] and as a result a reduction in systemic risk for U.S. market participants.[17] The compliance date for the amendment to Rule 15c6–1(a) under the Act is September 5, 2017.[18] The Exchange has represented that it would announce the operative date of the proposed rule change in an Equity Regulatory Alert and that such date would correspond to the compliance date of the amendment to Rule 15c6–1(a) under the Act.

For the reasons noted above, the Commission finds that the proposal, as modified by Amendment No. 1, is

[9] The Exchange also proposes to make non-substantive, formatting changes to Exchange Rule 11210(c)(2)(A).

[10] The Exchange also proposes to make a non-substantive change to Exchange Rule 11320(c).

[11] The Exchange also proposes to capitalize certain words in the title of Exchange Rule 11620(a).

[12] *See* SEC Adopting Release, *supra* note 6.

[13] In approving this proposed rule change, as modified by Amendment No. 1, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78f(b)(5).

[15] *See* SEC Adopting Release, *supra* note 6.

[16] Credit risk refers to the risk that the credit quality of one party to a transaction will deteriorate to the extent that it is unable to fulfill its obligations to its counterparty on settlement date. Market risk refers to the risk that the value of securities bought and sold will change between trade execution and settlement such that the completion of the trade would result in a financial loss. Liquidity risk describes the risk that an entity will be unable to meet financial obligations on time due to an inability to deliver funds or securities in the form required though it may possess sufficient financial resources in other forms. *See id.,* at 15564 n. 3.

[17] *See id.* at 15564.

[18] *See id.*

consistent with the requirements of the Act and would foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[19] that the proposed rule change, (SR–BX–2017–013), as modified by Amendment No. 1, be and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–09813 Filed 5–15–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80651; File No. SR–NYSEARCA–2017–49]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.46 To Modify the Date of Appendix B Web site Data Publication Pursuant to the Regulation NMS Plan To Implement a Tick Size Pilot Program

May 10, 2017.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on April 27, 2017, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.46 to modify the date of Appendix B Web site data publication pursuant to the Regulation NMS Plan to Implement a Tick Size Pilot Program. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule 7.46(b) (Compliance with Data Collection Requirements) [4] implements the data collection and Web site publication requirements of the Plan.[5] Supplementary Material .70 to Rule 7.46 provides, among other things, that the requirement that the Exchange or their DEA make certain data for the Pre-Pilot Period and Pilot Period [6] publicly available on the Exchange's or DEA's Web site pursuant to Appendix B to the Plan shall commence on April 28, 2017.[7] The Exchange is proposing to amend Supplementary Material .70 to Rule 7.46 to delay the Appendix B data Web site publication date until August 31, 2017. The Exchange is proposing to further delay the Web site publication of Appendix B data until August 31, 2017 to permit additional time to consider a methodology to mitigate concerns raised in connection with the publication of Appendix B data.[8]

Pursuant to this proposed amendment, the Exchange would publish the required Appendix B data for the Pre-Pilot Period through April 30, 2017, by August 31, 2017. Thereafter, Appendix B data for a given month would be published within 120 calendar days following month end.[9] Thus, for example, Appendix B data for May 2017 would be made available on the Exchange's or DEA's Web site by September 28, 2017, and data for the month of June 2017 would be made available on the Exchange's or DEA's Web site by October 28, 2017.

As noted in Item 2 of this filing, the Exchange has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the 30-day operative delay. If the Commission waives the 30-day operative delay, the operative date of the proposed rule change will be the date of filing.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in

[19] 15 U.S.C. 78s(b)(2).

[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 77484 (March 31, 2016), 81 FR 20024 (April 4, 2016) (Immediate Effectiveness of Proposed Rule Change Adopting Requirements for the Collection and Transmission of Data Pursuant to Appendices B and C of Regulation NMS Plan to Implement a Tick Size Pilot Program) (SR–NYSEARCA–2016–52); *see also* Securities Exchange Act Release No. 78814 (September 12, 2016), 81 FR 63818 (September 16, 2016) (Immediate Effectiveness of Proposed Rule Change to Amend Rule 7.46 to Modify Certain Data Collection Requirements of the Regulation NMS Plan to Implement a Tick Size Pilot Program) (SR–NYSEARCA–2016–124); *see also* Letter from John C. Roeser, Associate Director, Division of Trading and Markets, Commission, to Sherry Sandler, Associate General Counsel, NYSE Arca, dated April 4, 2016.

[5] The Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014. *See* Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014 (''SRO Tick Size Plan Proposal''). *See* Securities Exchange Act Release No 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014); *see also* Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015).

[6] Unless otherwise defined herein, capitalized terms have the meaning ascribed to them in the Plan.

[7] *See* Supplementary Material .70 to Rule 7.46. *See also* Securities Exchange Act Release No. 80175 (March 8, 2017), 82 FR 13688 (March 14, 2017). *See also* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Robert L.D. Colby, Executive Vice President and Chief Legal Officer, Financial Industry Regulatory Authority, Inc. (''FINRA''), dated February 28, 2017.

[8] On March 3, 2017, FINRA filed a proposed rule change to implement an anonymous, grouped masking methodology for Appendix B.I, B.II. and B.IV. data. The comment period ended on April 5, 2017, and the Commission received three comment letters. *See* Securities Exchange Act Release No. 80193 (March 9, 2017) 82 FR 13901 (March 15, 2017).

[9] FINRA also submitted an exemptive request, on behalf of all Participants, to the SEC in connection with the instant filing.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

general, to protect investors and the public interest.

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stock of small-capitalization companies. The Exchange believes that this proposal is consistent with the Act because it is in furtherance of the objectives of Section VII(A) of the Plan in that it is designed to provide the Exchange with additional time to consider a methodology to mitigate concerns raised in connection with the publication of Appendix B data.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements the provisions of the Plan, and is designed to assist the Participants in meeting their regulatory obligations pursuant to the Plan.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13]

A proposed rule change filed under Rule 19(b)–4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing so that it may become operative on the date of filing.

The Exchange notes that the proposed rule change is intended to mitigate confidentiality concerns raised in connection with Section VII(A) of the Plan, which provides that the data made publicly available will not identify the Trading Center that generated the data. The Exchange states that the additional time would allow consideration of a methodology to mitigate concerns related to the publication of Appendix B data.[14]

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will synchronize the timing for publication of Appendix B data for all Participants, which should enhance the consistency and usefulness of the data.[15] Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative on the date of 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 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–NYSEARCA–2017–49 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2017–49. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2017–49 and should be submitted on or before June 6, 2017.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] The Commission recently approved a FINRA proposal to implement an aggregated, anonymous grouped masking methodology for the publication of Appendix B data related to OTC trading activity. *See* Securities Exchange Release No. 80551, (April 28, 2017), 82 FR 20948 (May 4, 2017). *See also* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Marcia E. Asquith, Executive Vice President FINRA, dated April 28, 2017.

[15] The Commission recently granted exemptive relief to the Participants delay the publication of their Appendix B data until August 31, 2017. *See* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Jennifer Piorko Mitchell, Vice President and Deputy Corporate Secretary, FINRA, dated April 27, 2017. The Commission notes that other Participants have submitted proposed rule changes to delay the publication of Appendix B data until August 31, 2017. *See e.g.,* SR–BatsBYX–2017–10; SR–BatsEDGA–2017–10; SR–BatsEDGX–2017–19; SR–BX–2017–022; SR–CHX–2017–07; SR–FINRA–2017–010; SR–IEX–2017–12; SR–NASDAQ–2017–044; SR–Phlx–2017–33; SR–NYSE–2017–19; SR–NYSEMKT–2017–24.

[16] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman

Assistant Secretary.

[FR Doc. 2017–09823 Filed 5–15–17; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice: 9990]

Advisory Committee for the Study of Eastern Europe and the Independent States of the Former Soviet Union (TITLE VIII); Renewal of Charter and Meeting Notice

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463), the Department of State has renewed the Charter for the Advisory Committee for the Study of Eastern Europe and the Independent States of the Former Soviet Union (Advisory Committee) effective April 3, 2017.

The Advisory Committee will convene on Monday, June 5, 2017, from 10:00 a.m. until approximately 12:00 p.m. The meeting will take place at the U.S. Department of State, Harry S Truman Building, 2201 C Street NW., Washington, DC, Room 1408.

The Advisory Committee will recommend grant recipients for the 2017 funding opportunity of the Program for the Study of Eastern Europe and the Independent States of the Former Soviet Union, in accordance with the Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983, Public Law 98–164, as amended. The agenda will include opening statements by the chairperson and members of the committee. The committee will provide an overview and discussion of grant proposals from ''national organizations with an interest and expertise in conducting research and training concerning the countries of Eastern Europe and the Independent States of the Former Soviet Union,'' based on the guidelines set forth in the March 8, 2017 request for proposals published on *Grants.gov* and *GrantSolutions.gov*. Following committee deliberation, interested members of the public may make oral statements concerning the Title VIII program.

This meeting will be open to the public; however, attendance is limited to available seating. Entry into the Harry S Truman building is controlled and must be arranged in advance of the meeting. Those planning to attend should notify the Title VIII Program Officer at the U.S. Department of State on (202) 647–4562 no later than close of business, Wednesday, May 31, 2017.

For pre-clearance into the Harry S Truman building, the Title VIII Program Officer will request identifying data pursuant to Public Law 99–399 (Omnibus Diplomatic Security and Antiterrorism Act of 1986), as amended; Public Law 107–56 (USA PATRIOT Act); and Executive Order 13356. The purpose of the collection is to validate the identity of individuals who enter Department facilities. The data will be entered into the Visitor Access Control System (VACS–D) database.

Please review the Security Records System of Records Notice (State-36) at *http://foia.state.gov/_docs/SORN/State-36.pdf* for additional information. All attendees must use the 2201 C Street entrance and must arrive no later than 9:30 a.m. to pass through security before entering the building. Visitors who arrive without prior notification and without photo identification cannot be admitted.

Catherine Kuchta-Helbling,

Executive Director Advisory Committee for Study of Eastern Europe, and the Independent States of the Former Soviet Union.

[FR Doc. 2017–09835 Filed 5–15–17; 8:45 am]

BILLING CODE 4710–32–P

DEPARTMENT OF STATE

[Public Notice: 9995]

Notice of Determinations: Culturally Significant Objects Re-imported or Imported for Exhibition Determinations: ''Paint the Revolution: Mexican Modernism, 1910–1950'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015), I hereby determine that certain objects to be included in the exhibition ''Paint the Revolution: Mexican Modernism, 1910–1950,'' re-imported or imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are re-imported or imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Museum of Fine Arts, Houston, in Houston, Texas, from on or about June 21, 2017, until on or about October 1, 2017, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the objects to which this notice pertains, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Alyson Grunder,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2017–09919 Filed 5–15–17; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 9993]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition Determinations: ''Modernism on the Ganges: Raghubir Singh Photographs'' Exhibition

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015), I hereby determine that certain objects to be included in the exhibition ''Modernism on the Ganges: Raghubir Singh Photographs,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Metropolitan Museum of Art, New York, New York, from on or about October 10, 2017, until on or about January 2, 2018, at the Museum of Fine Arts, Houston, in Houston, Texas,

[17] 17 CFR 200.30–3(a)(12).

from on or about March 4, 2018, until on or about June 3, 2018, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Alyson Grunder,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2017–09834 Filed 5–15–17; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 6 (Sub–No. 495X)]

BNSF Railway Company—Abandonment Exemption—in Flathead County, Montana

On April 26, 2017, BNSF Railway Company (BNSF) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the prior approval requirements of 49 U.S.C. 10903 to abandon a 2.7-mile rail line extending from milepost 1225.19 to the south end of the line at milepost 1227.58 and to the west end of the line at Engineering Station 189+36 (milepost 1227.10) in Kalispell, Flathead County, Minn. (the Line). The Line traverses U.S. Postal Zip Code 55901.

According to BNSF, the leaseholder and local rail service operator on the Line, Mission Mountain Railroad, L.L.C., will seek authority to discontinue its service over the Line. BNSF represents that the two customers on the Line, Northwest Drywall & Building Supply and CHS Inc., will be relocated and do not oppose the abandonment.

BNSF states that the Line does not contain any federally granted rights-of-way. Any documentation in BNSF's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by August 14, 2017.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) for continued rail service will be due by August 24, 2017, or 10 days after service of a decision granting the petition for exemption, whichever occurs first. Each OFA must be accompanied by a $1,700 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment, the Line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for interim trail use/rail banking under 49 CFR 1152.29 will be due no later than June 5, 2017. Each interim trail use request must be accompanied by a $300 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to Docket No. AB 6 (Sub-No. 495X) and must be sent to: (1) Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001; and (2) Karl Morell, Karl Morell & Associates, 655 Fifteenth St. NW., Suite 225, Washington, DC 20005. Replies to the petition are due on or before June 5, 2017.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by OEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact OEA to obtain a copy of the EA (or EIS). EAs in abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA generally will be within 30 days of its service.

Board decisions and notices are available on our Web site at ''*WWW.STB.GOV*.''

Decided: May 11, 2017.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Brendetta S. Jones,

Clearance Clerk.

[FR Doc. 2017–09882 Filed 5–15–17; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2016–0313]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt seven individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs in interstate commerce.

DATES: The exemptions were effective on February 3, 2017. The exemptions will expire on February 3, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, 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 receipt of applications from eight individuals requesting an exemption from the epilepsy prohibition in 49 CFR 391.41(b)(8) and requested comments from the public (81 FR 96189). The public comment period ended on January 30, 2017, and one comment was received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to seven of the eight individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(8).

The physical qualification standard for drivers regarding epilepsy found in 49 CFR 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person:

> Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria [1] to assist medical examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section *H. Epilepsy: § 391.41(b)(8),* paragraphs 3, 4, and 5.]

III. Discussion of Comments

FMCSA received one comment in this proceeding regarding Mr. William Harden from the New York State Department of Motor Vehicle (DMV) indicating that their records contained data that is discrepant with the information presented in the **Federal Register** notice. FMCSA reviewed the discrepant information provided by the DMV and determined that Mr. Harden does not currently meet the requirements to receive the exemption at this time. A letter was sent to Mr. Harden, from FMCSA, providing reasons for denial.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the epilepsy/seizure standard in 49 CFR 391.41(b)(8) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

In reaching the decision to grant these exemption requests, FMCSA considered the 2007 recommendations of the Agency's Medical Expert Panel (MEP). The January 15, 2013, **Federal Register** notice (78 FR 3069) provides the current MEP recommendations which is the criteria the Agency uses to grant seizure exemptions.

The Agency's decision regarding these exemption applications is based on an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s) and medical information about the applicant's seizure history, the length of time that has elapsed since the individual's last seizure, the stability of each individual's treatment regimen and the duration of time on or off of anti-seizure medication. In addition, the Agency reviewed the treating clinician's medical opinion related to the ability of the driver to safely operate a CMV with a history of seizure and each applicant's driving record found in the Commercial Driver's License Information System (CDLIS) for commercial driver's license (CDL) holders, and interstate and intrastate inspections recorded in the Motor Carrier Management Information System (MCMIS). For non-CDL holders, the Agency reviewed the driving records from the State Driver's Licensing Agency (SDLA).

These seven applicants have been seizure-free over a range of 10 to 27 years while taking anti-seizure medication and maintained a stable medication treatment regimen for the last two years. In each case, the applicant's treating physician verified his or her seizure history and supports the ability to drive commercially.

A summary of each applicant's seizure history was discussed in the December 29, 2016, **Federal Register** notice (81 FR 96189) and will not be repeated in this notice.

The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers granted this exemption have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

Consequently, FMCSA finds that in each case exempting these applicants from the epilepsy/seizure standard in 49 CFR 391.41(b)(8) is likely to achieve a level of safety equal to that existing without the exemption.

IV. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must remain seizure-free and maintain a stable treatment during the two-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified Medical Examiner, as defined by 49 CFR 390.5; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

V. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VI. Conclusion

Based upon its evaluation of the eight exemption applications, FMCSA exempts the following drivers from the epilepsy/seizure standard, 49 CFR 391.41(b)(8), subject to the requirements cited above:

James Connelly (NJ)
Ricky Conway Jr. (MO)
John Darden Jr. (CA)
Bradley Hollister (PA)
Clarence Jones (VA)
Michael Merical (NY)
Elvin Paul Morgan (CA)

In accordance with 49 U.S.C. 31315(b)(1), each exemption is valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The individual fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a

[1] See *http://www.ecfr.gov/cgi-bin/text-idx?SID=e47b48a9ea42dd67d999246e23d97970&mc=true&node=pt49.5.391&rgn=div5#ap49.5.391_171.a* and *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

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: May 9, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–09857 Filed 5–15–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2017–0030]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 40 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions were effective on April 27, 2017. The exemptions expire on April 27, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On March 27, 2017, FMCSA published a notice of receipt of Federal diabetes exemption applications from 40 individuals and requested comments from the public (82 FR 15271). The public comment period closed on April 26, 2017, and no comments were received.

FMCSA has evaluated the eligibility of the 40 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 40 applicants have had ITDM over a range of 1 to 35 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the March 27, 2017, **Federal Register** notice and they will not be repeated in this notice.

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each

individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Conclusion

Based upon its evaluation of the 40 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(3):

Felix M. Alicea (NJ)
Ryan T. Anderson (MT)
Vladimir Azbel (NY)
Darren E. Barrett (AZ)
Douglas D. Bartley (SC)
Haydee G. Bast (NY)
Robert D. Bravo (CA)
John E. Carter (AL)
Christopher A. Cleaves (ME)
Jacob M. Cox (NY)
Larry S. Crosby (GA)
Dean G. Franck (CO)
Irving Gandy 3rd (NJ)
Bryan D. Giddings (IN)
Sidney Greenlee (GA)
Caleb D. Jahn (CO)
Jason T. Langshaw (RI)
John L. Lensch (IA)
Jaxon S. Lind (MN)
Jesse E. Long (CT)
Gregory B. Lowry (UT)
Paul J. Marsh (NY)
Richard D. Marty (WA)
Scott A. Meade (OH)
Pedro Mejia (NJ)
Maynard D. Moore (MO)
Bret D. Noffke (WI)
Dennis K. Rottenbucher (SD)
Joseph J. Schwartz (PA)
Benjamin N. Smith (CT)
Matthew Spahr (PA)
Aaron M. Stoltzfus (SC)
Daniel Suarez (NJ)
Tyler B. Terrill (WI)
Jason M. Thomas (KY)
Steven L. Tiefenthaler (IA)
Joseph D. Wallace (IL)
David L. White (AR)
Paul B. Woodward (PA)
Miguel L. Xilotl (MN)

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption is valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: May 9, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–09855 Filed 5–15–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Actions Pursuant to Executive Order 13224

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of 3 individuals and 1 entity whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism.''

DATES: OFAC's actions described in this notice were effective on May 11, 2017.

FOR FURTHER INFORMATION CONTACT: Associate Director for Global Targeting, tel.: 202/622–2420, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202/622–2490, Assistant Director for Licensing, tel.: 202/622–2480, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available from OFAC's Web site (*www.treas.gov/ofac*).

Notice of OFAC Actions

On May 11, 2017, OFAC blocked the property and interests in property of the following 3 individuals and 1 entity pursuant to E.O. 13224, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism'':

Individuals

1. RAHMAN, Inayat ur (a.k.a. AL RAHMAN, Inayat al Rahman bin Sheikh Jamil; a.k.a. AL-RAHMAN, 'Inayat; a.k.a. AL-RAHMAN, 'Inayat al-Rahman bin Sheikh Jamil; a.k.a. AL-RAHMAN, 'Inayat al-Rahman Bin al-Sheikh Jamil; a.k.a. JALIL, Inayatullah ur-Rahman; a.k.a. JAMEAL, 'Anayet el-Rahman; a.k.a. JAMEEL, Inayat; a.k.a. JAMIL, Enayat al-Rahman; a.k.a. JAMIL, Enayaturrahman; a.k.a. JAMIL, Enayetul Rahman; a.k.a. JAMIL, Inayat al-Rahman; a.k.a. RAHMAN, Anayat ur; a.k.a. RAHMAN, Anayatullah; a.k.a. RAHMAN, Enayat al; a.k.a. RAHMAN, Enayatullah; a.k.a. RAHMAN, Inayatu; a.k.a. RAHMAN, Inayat-u-; a.k.a. RAHMAN, Inayatullah; a.k.a. RAHMAN, Inayat-ur-; a.k.a. REHMAN, Inayat; a.k.a. REHMAN, Inayat ur; a.k.a. UR-RAHMAN, Anayat; a.k.a. UR-RAHMAN, Anyat; a.k.a. UR-RAHMAN, Enayat; a.k.a. UR-RAHMAN, Jamil Inayat; a.k.a. ''AINAYATURAHMAN''; a.k.a. ''ANAYATURAHMAN''; a.k.a. ''INAYATURAHMAN''; a.k.a. ''INAYATURRAHMAN''), Saidabad Pajagi Road, Peshawar, Pakistan; DOB 02 Dec 1973; POB Nangalam Village, Manugay District, Afghanistan; nationality Pakistan; Gender Male; Passport BG1744461 (Pakistan); National ID No. 1730156254465 (Pakistan) (individual) [SDGT] (Linked To: JAMA'AT UL DAWA AL-QU'RAN; Linked To: TALIBAN; Linked To: LASHKAR E-TAYYIBA).

2. TURAB, Ali Muhammad Abu (a.k.a. ABUTURAB, Ali Muhammad; a.k.a. MOHAMMAD, Ali Mohammad Abutorab Noor; a.k.a. MOHAMMAD, Ali Mohammad Noor; a.k.a. MOHD, Ali Mohd Abutorab Noor; a.k.a. MUHAMMAD, Abu Turab Ali; a.k.a. MUHAMMED, Ali Muhammed Noor; a.k.a. TORAB, Abu Ali; a.k.a. TORAB, Ali Mohammad Abu; a.k.a. TURAB, Ali Mohammad Abu; a.k.a. TURAB, Ali Mohammed Abu; a.k.a. ''MOHAMMED, Ali''; a.k.a. ''TURAB, Abu''), Jamia Salfia, Airport Road, Quetta, Pakistan; Patel Road, Quetta, Pakistan; Saudi Arabia; DOB 10 Sep 1964; alt. DOB 05 Jan 1968; POB Quetta, Balochistan, Pakistan; nationality Pakistan; Gender Male; Passport J349992 (Pakistan); National ID No. 2083655452 (Saudi Arabia) (individual) [SDGT] (Linked To: JAMA'AT UL DAWA AL-QU'RAN; Linked To: AMEEN AL-PESHAWARI, Fazeel-A-Tul Shaykh Abu Mohammed).

3. MUHAMMAD, Hayat Ullah Ghulam (a.k.a. HAYAATULLAH, Haji; a.k.a. HAYATOLLAH, Haji; a.k.a. HAYATULLAH, Haji; a.k.a. HIYATULLAH, Haji), Saeedabad, Pagi Road, Peshawar, Pakistan; Saeedabad, Pachagi Road, Peshawar, Pakistan; DOB 1957 to 1959; POB Nangalam Village, Dar-e-Pech, Kunar, Afghanistan; Gender Male; Passport TR030544 (Afghanistan); alt. Passport TR035506 (Afghanistan) (individual) [SDGT] (Linked To: JAMA'AT UL DAWA AL-QU'RAN; Linked To: LASHKAR E-TAYYIBA; Linked To: TALIBAN; Linked To: ISIL KHORASAN; Linked To: AL QA'IDA; Linked To: ISLAMIC STATE OF IRAQ AND THE LEVANT).

Entity

1. WELFARE AND DEVELOPMENT ORGANIZATION OF JAMAAT-UD-DAWAH FOR QUR'AN AND SUNNAH (a.k.a. AL-MUNADAMA AL-KHAYRIA LILTANMIA; a.k.a. AL-MUNADDAMA AL-KAIRYIA LIL-TANMIYA OF JAMA'AT AL-DA'WAH ILA

AL-QUR'AN WA-AL-SUNNAH; a.k.a. M/S WELFARE & DEVELOPMENT ORGANIZATION; a.k.a. MASHARIA AL-KHAYRIA; a.k.a. MASHARYA AL-KHAIRYA; a.k.a. WELFARE AND DEVELOPMENT ORGANIZATION IN AFGHANISTAN; a.k.a. WELFARE AND DEVELOPMENT ORGANIZATION IN PAKISTAN; a.k.a. WELFARE AND DEVELOPMENT ORGANIZATION OF ADVOCACY GROUP TO THE KORAN AND SUNNAH; a.k.a. WELFARE AND DEVELOPMENT ORGANIZATION OF JAMA'AT AL-DA'WAH LI-L-QUR'AN WA-L-SUNNA; a.k.a. WELFARE AND DEVELOPMENT ORGANIZATION OF JAMA'AT AL-DA'WAH ILA AL-QUR'AN WA-AL-SUNNAH; a.k.a. WELFARE AND DEVELOPMENT ORGANIZATION OF THE GROUP FOR THE CALL TO QUR'AN AND SUNNAH; a.k.a. ''WDO''; a.k.a. ''WELFARE & DEVELOPMENT ORGANIZATION''; a.k.a. ''WELFARE AND DEVELOPMENT ORG''; a.k.a. ''WELFARE AND DEVELOPMENT ORGANIZATION''), P.O. Box 1202, Badhi Road, Chamkani, Peshawar 25000, Pakistan; 81–E/A, Old Bara Road, University Town, Peshawar 25000, Pakistan; P.O. Box 769, University Town, Peshawar, Pakistan; 45 D/3, Old Jamrud Road, University Town, Peshawar 25000, Pakistan; Shahen Town, House 46, near airport, Peshawar, Pakistan; Jalalabad, Nangarhar, Afghanistan; Upper Chatter Near Water Supply, Muzaffarabad, Azad Jammu and Kashmir, Pakistan; Registration ID F.5 (29) AR–11/2002 (Pakistan); alt. Registration ID 827 (Afghanistan) [SDGT] (Linked To: RAHMAN, Inayat ur).

Dated: May 11, 2017.

Andrea Gacki,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2017–09874 Filed 5–15–17; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; New Issue Bond Program and Temporary Credit and Liquidity Program

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection request(s) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on the collection(s) listed below.

DATES: Comments should be received on or before July 17, 2017 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8142, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained by emailing *PRA@treasury.gov,* calling (202) 622–0489, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Department of the Treasury, Departmental Offices (DO)

Title: New Issue Bond Program and Temporary Credit and Liquidity Program.

OMB Control Number: 1505–0224.

Type of Review: Extension without change of a currently approved collection.

Abstract: Authorized under section 304(g) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(g)) and Section 306(l) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1455(l), as amended by the Housing and Economic Recovery Act (HERA) of 2008 (Pub. L. 110–289; approved July 30, 2008) the Department of the Treasury (Treasury) implemented two programs under the HFA (Housing Finance Agency) Initiative. The statute provides the Secretary authority to purchase securities and obligations of Fannie Mae and Freddie Mac (the GSEs) as he determines necessary to stabilize the financial markets, prevent disruptions in the availability of mortgage finance, and to protect the taxpayer. On December 4, 2009, the Secretary made the appropriate determination to authorize the two programs of the HFA Initiative: The New Issue Bond Program (NIBP) and the Temporary Credit and Liquidity Program (TCLP). Under the NIBP, Treasury purchased securities from the GSEs backed by mortgage revenue bonds issued by participating state and local HFAs. Under the TCLP, Treasury purchased a participation interest from the GSEs in temporary credit and liquidity facilities provided to participating HFAs as a liquidity backstop on their variable-rate debt. In order to properly manage the two programs of the initiative, continue to protect the taxpayer, and assure compliance with the Programs' provisions, Treasury instituted a series of data collection requirements to be completed by participating HFAs and furnished to Treasury through the GSEs.

Form: None.

Affected Public: Businesses or other for profit institutions; not-for-profit institutions.

Estimated Number of Respondents: 66.

Estimated Annual Response: 3,674.

Estimated Total Annual Burden Hours: 19,359.

Authority: *44 U.S.C. 3501 et seq.*

Dated: May 10, 2017.

Jennifer P. Leonard,

Treasury PRA Clearance Officer.

[FR Doc. 2017–09777 Filed 5–15–17; 8:45 am]

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