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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Document Number AMS–NOP–16–0052; NOP–16–03]

RIN 0581–AD52

National Organic Program (NOP); Sunset 2017 Amendments to the National List

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the National List of Allowed and Prohibited Substances (National List) within the U.S. Department of Agriculture's (USDA) organic regulations, to prohibit the use of 8 substances in organic production and handling after June 27, 2017: Lignin sulfonate (for use as a floating agent); furosemide; magnesium carbonate; and the nonorganic forms of chia, dillweed oil, frozen galangal, frozen lemongrass, and chipotle chile peppers. This action also renews 3 substances on the National List to continue to allow nonorganic forms of inulin-oligofructose enriched, Turkish bay leaves, and whey protein concentrate in organic products. This action addresses eleven recommendations submitted to the Secretary of Agriculture (Secretary) by the National Organic Standards Board (NOSB) following its October 2015 meeting. These recommendations pertain to the NOSB's 2017 sunset review of a portion of the substances on the National List.

DATES: This final rule is effective on August 7, 2017. The renewal of the substances inulin-oligofructose enriched, Turkish bay leaves, and whey protein concentrate for inclusion on the National List is applicable beginning on June 27, 2017.

FOR FURTHER INFORMATION CONTACT: Paul Lewis, Ph.D., Director, Standards Division, *Telephone:* (202) 720–3252; *Fax:* (202) 260–9151.

SUPPLEMENTARY INFORMATION:

I. Background

The USDA Agricultural Marketing Service (AMS) administers the National Organic Program (NOP), under the authority of the Organic Foods Production Act of 1990 (OFPA), as amended (7 U.S.C. 6501–6522). The regulations implementing the NOP, also referred to as the USDA organic regulations, were published December 21, 2000 (65 FR 80548) and became effective on October 21, 2002. Through these regulations, AMS oversees national standards for the production, handling, and labeling of organically produced agricultural products.

Since October 2002, the USDA organic regulations have been frequently amended, mostly for changes to the National List in 7 CFR 205.601–205.606. The National List identifies synthetic substances that may be used and the nonsynthetic substances that must not be used in organic production. The National List also identifies synthetic, nonsynthetic nonagricultural, and nonorganic agricultural substances that may be used in organic handling. The OFPA and USDA organic regulations specifically prohibit the use of any synthetic substance in organic production and handling unless the synthetic substance is on the National List. Section 205.105 also requires that any nonorganic agricultural substance and any nonsynthetic nonagricultural substance used in organic handling appear on the National List.

The OFPA authorizes the National Organic Standards Board (NOSB), operating in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2 *et seq.*), to develop recommendations to amend the National List. The NOSB assists in the evaluation of substances for organic production and handling and advises the Secretary on the USDA organic regulations. The OFPA also requires a sunset review of all substances included on the National List within five years of their addition to or renewal on the list. If a listed substance is not reviewed by the NOSB and renewed by the USDA within the five-year period, its allowance or prohibition on the

National List is no longer valid. This periodic review of National List substances is referred to as “sunset review.” Under the authority of the OFPA, the Secretary can amend the National List through rulemaking based upon proposed amendments recommended by the NOSB.

The NOSB's sunset review of substances on the National List includes consideration of public comments and applicable supporting evidence that express a continued need for the use or prohibition of the substance(s) as required by the OFPA.

Recommendations to either continue or discontinue an authorized exempted synthetic substance (7 U.S.C. 6517(c)(1)) are developed by the NOSB based on evaluation of technical information, public comments, and supporting evidence that demonstrate that the substance is: (a) Harmful to human health or the environment; (b) no longer necessary for organic production due to the availability of alternative wholly nonsynthetic substitute products or practices; or (c) inconsistent with organic farming and handling practices.

In accordance with the sunset review process published in the **Federal Register** on September 16, 2013 (78 FR 61154), this final rule would amend the National List to remove eight substances as recommended to the Secretary by the NOSB on October 29, 2015. Additionally, this final rule would renew three substances allowed for use in organic products based on information that there is a continued need for these materials.

II. Overview of Amendments

Removals

This final rule amends the National List to remove eight exemptions (allowances) for: Lignin sulfonate, furosemide, magnesium carbonate, chia, dillweed oil, frozen galangal, frozen lemongrass, and chipotle chile peppers. The NOSB recommended that these substances should be removed from the National List based on its 2017 sunset review. In summary, the NOSB concluded that these substances are no longer needed in organic production or handling because there are alternative practices or materials. AMS concurs with these recommendations for removal as described below.

The NOSB considered public comments and other information to

determine whether these substances continue to meet the OFPA criteria (7 U.S.C. 6517(c) and 6518(m)) for inclusion on the National List. With regard to (i) lignin sulfonate (§ 205.601(1)(l)—synthetic substance allowed as a floating agent in post-harvest handling), (ii) furosemide (§ 205.603(a)—synthetic substance allowed for livestock medical treatment), and (iii) magnesium carbonate (§ 205.605(b)—synthetic ingredient allowed in or on organic processed products), the NOSB concluded that these three substances are no longer necessary for organic production or postharvest handling and alternative substances are available.

AMS received no public comments concerning the proposed removal of lignin sulfonate (as as floating agent in post-harvest handling), furosemide, and magnesium carbonate from the National List. AMS has reviewed and accepts the NOSB recommendations to remove these substances from the National List when the listings are due to sunset, or expire. Therefore, after June 27, 2017, lignin sulfonate (as as floating agent in post-harvest handling), furosemide, and magnesium carbonate will no longer be allowed for use in organic production or handling.¹

With regard to chia (*Salvia hispanica* L.), dillweed oil, galangal (frozen), lemongrass (frozen), and peppers (chipotle chile), the NOSB considered public comments and other information to determine whether these five substances continue to meet the OFPA criteria for inclusion on the National List. These substances appear in section 205.606 of the National List which allows the use of nonorganic forms of these substances when the organic form is not commercially available.² The NOSB recommended that these substances be removed because adequate organic sources are available in the supply chain and nonorganic forms are not needed.

AMS received no public comments concerning the proposed removal of chia, dillweed oil, frozen galangal, frozen lemongrass, and chipotle chile peppers from the National List. AMS has reviewed and accepts the NOSB recommendations to remove these substances from the National List when

the listings are due to sunset, or expire. Therefore, after June 27, 2017, nonorganic forms of chia, dillweed oil, frozen galangal, frozen lemongrass, and chipotle chile peppers will no longer be allowed for use in organic products.

III. Related Documents

Two notices announcing NOSB public meetings were published in the **Federal Register** on March 12, 2015 (80 FR 12975) and on September 8, 2015 (80 FR 53759). These notices invited the public to provide comments to the NOSB for the 2017 sunset review. The notices informed the public that the listings discussed in this final rule would expire from the National List on June 27, 2017, if not reviewed by the NOSB and renewed by the Secretary.

On January 18, 2017, AMS published a proposed rule in the **Federal Register** (82 FR 5431) to notify the public and solicit comments on AMS' proposed action to remove eleven substances from the National List based on the NOSB's 2017 sunset recommendations. The comment period for the proposed rule was extended an additional 30 days to April 19, 2017, per a **Federal Register** document published on February 17, 2017 (82 FR 10967).

IV. Statutory and Regulatory Authority

OFPA, as amended (7 U.S.C. 6501–6522), authorizes the Secretary to make amendments to the National List based on proposed recommendations developed by the NOSB. Sections 6518(k)(2) and 6518(n) of OFPA authorize the NOSB to develop proposed amendments to the National List for submission to the Secretary and establish a petition process by which persons may petition the NOSB for the purpose of having substances evaluated for inclusion on or removal from the National List. The National List petition process is implemented under § 205.607 of the USDA organic regulations. The National List Petition Guidelines (NOP 3011) are published in the NOP Handbook which is available on the AMS Web site, <http://www.ams.usda.gov/nop>. The guidelines describe the information to be included for all types of petitions submitted to amend the National List. AMS published a revised sunset review process in the **Federal Register** on September 16, 2013 (78 FR 56811).

A. Executive Orders 12866 and 13771, and Regulatory Flexibility Act

This rule does not meet the definition of a significant regulatory action contained in section 3(f) of Executive Order 12866, and is not subject to review by the Office of Management and

Budget (OMB). Additionally, because this rule does not meet the definition of a significant regulatory action it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled "Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled 'Reducing Regulation and Controlling Regulatory Costs'" (February 2, 2017).

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) requires agencies to consider the economic impact of each rule on small entities and evaluate alternatives that would accomplish the objectives of the rule without unduly burdening small entities or erecting barriers that would restrict their ability to compete in the market. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to the action. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

Pursuant to the requirements set forth in the RFA, AMS performed an economic impact analysis on small entities in the final rule published in the **Federal Register** on December 21, 2000 (65 FR 80548). AMS has also considered the economic impact of this action on small entities. The impact on entities affected by this proposed rule would not be significant. The effect of this rule would be to prohibit the use of eight substances that have limited public support and may no longer be used because alternatives to these substances have been developed and implemented by organic producers or organic handlers (food processors). AMS concludes that the economic impact of removing lignin sulfonate, furosemide, magnesium carbonate, chia, dillweed oil, frozen galangal, frozen lemongrass, and chipotle chile peppers from the National List would be minimal to small agricultural firms because alternative practices or substances are commercially available. As such, these substances are to be removed from the National List under this rule.

This rule would also allow for the continued use of three nonorganic agricultural substances: Turkish bay leaves, inulin-oligofructose enriched, and whey protein concentrate. AMS concludes that renewing these three ingredients would minimize impact to small agricultural firms because alternative products or organic forms of these ingredients are not commercially available and handlers need to use the nonorganic forms. Accordingly, AMS certifies that this rule will not have a

¹ The allowance for lignin sulfonate as a chelating agent or dust suppressant for plant or soil amendments in organic crop production remains on the National List (§ 205.601(j)(4)).

² Definition of Commercially Available (§ 205.2): The ability to obtain a production input in an appropriate form, quality, or quantity to fulfill an essential function in a system of organic production or handling, as determined by the certifying agent in the course of reviewing the organic plan.

significant economic impact on a substantial number of small entities.

Small agricultural service firms, which include producers, handlers, and accredited certifying agents, have been defined by the Small Business Administration (SBA) as those having annual receipts of less than \$7,500,000 and small agricultural producers are defined as those having annual receipts of less than \$750,000. See 13 CFR 121.201.

According to NOP's Accreditation and International Activities Division, the number of certified U.S. organic crop and livestock operations totaled over 24,669 in March 2017. The list of certified operations is available on the AMS NOP Web site at <http://www.ams.usda.gov/nop>. AMS believes that most of these entities would be considered small entities under the criteria established by the SBA. In addition, the USDA has 81 accredited certifying agents who provide certification services to producers and handlers. A complete list of names and addresses of accredited certifying agents may be found on the AMS NOP Web site at <http://www.ams.usda.gov/nop>. AMS believes that most of these accredited certifying agents would be considered small entities under the criteria established by the SBA.

B. Executive Order 12988

Executive Order 12988 instructs each executive agency to adhere to certain requirements in the development of new and revised regulations in order to avoid unduly burdening the court system. This proposed rule is not intended to have a retroactive effect.

Pursuant to section 6519(f) of OFPA, this proposed rule would not alter the authority of the Secretary under the Federal Meat Inspection Act (21 U.S.C. 601–624), the Poultry Products Inspection Act (21 U.S.C. 451–471), or the Egg Products Inspection Act (21 U.S.C. 1031–1056), concerning meat, poultry, and egg products, nor any of the authorities of the Secretary of Health and Human Services under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301–399), nor the authority of the Administrator of the U.S. Environmental Protection Agency (EPA) under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136–136(y)).

C. Paperwork Reduction Act

No additional collection or recordkeeping requirements are imposed on the public by this rule. Accordingly, OMB clearance is not required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, Chapter 35.

D. Executive Order 13175

This proposed rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

E. Comments Received on Proposed Rule AMS–NOP–16–0052; NOP–16–03

AMS received seven public comments from ingredient manufacturers, organic handlers, and a trade association on the proposal to remove the following three substances from the National List: Turkish bay leaves, inulin-oligofructose enriched, and whey protein concentrate. These substances are listed in section 205.606 of the National List, which allows nonorganic forms to be used in organic products when organic forms are not commercially available. Removing these substances from the National List would mean that only organic forms of these ingredients could be used in organic products.

Changes Made Based on Comments

AMS received public comments which opposed the removal of Turkish bay leaves from the National List. These public comments stated that organic Turkish bay leaves are not available in the quantity or quality needed to meet organic handling needs. The comments explained that the different flavor profile of ground organic Turkish bay leaves would negatively impact finished products. Comments requested that AMS maintain the allowance for nonorganic Turkish bay leaves while suppliers pursue sources of organic Turkish bay leaves in sufficient quality and quantity to meet industry needs.

AMS also received public comments opposing the proposed removal of inulin-oligofructose enriched from the National List. Comments acknowledged that there are organic or alternate forms of inulin available, such as inulin from organic agave and fructooligosaccharides, but explained that these are not equivalent to inulin-oligofructose enriched, which is sourced only from chicory root and provides unique functionality for use as a prebiotic in organic infant formula. The comments indicated that an adequate supply of organic chicory root is not commercially available.

AMS received public comment opposing the removal of whey protein concentrate from the National List. Whey protein concentrate is used as an ingredient in various products including

bakery, confectionary, processed meat, infant formula, and dairy products. Public comments submitted indicated that whey protein concentrate is essential to organic processed products and is not commercially available in organic form at this time.

In consideration of the new information presented in public comments, AMS has determined that nonorganic forms of Turkish bay leaves, inulin-oligofructose enriched, and whey protein concentrate are essential to organic production and handling and should remain on the National List. The USDA organic regulations may allow the use of nonorganic substances that are not commercially available in organic form, quality, or quantity, and are necessary to organic handling. As with other substances in section 205.606 of the National List, organic handlers are permitted to use the nonorganic substance only if the organic substance is not commercially available. Handlers will need to demonstrate, and certifiers will need to verify, that the organic substance is not available in the form, quality or quantity needed. Further, any member of the public may petition to remove an agricultural substance from the National List if an organic substance becomes commercially available.³

List of Subjects in 7 CFR Part 205

Administrative practice and procedure, Agriculture, Animals, Archives and records, Imports, Labeling, Organically produced products, Plants, Reporting and recordkeeping requirements, Seals and insignia, Soil conservation.

For the reasons set forth in the preamble, 7 CFR part 205 is amended as follows:

PART 205—NATIONAL ORGANIC PROGRAM

■ 1. The authority citation for 7 CFR part 205 continues to read as follows:

Authority: 7 U.S.C. 6501–6522.

■ 2. Amend § 205.601 by revising paragraph (l) to read as follows:

§ 205.601 Synthetic substances allowed for use in organic crop production.

* * * * *

(l) As floating agents in postharvest handling. Sodium silicate—for tree fruit and fiber processing.

* * * * *

§ 205.603 [Amended]

■ 3. Amend § 205.603 by:

³ The AMS Web site describes how to submit a petition: <https://www.ams.usda.gov/rules-regulations/organic/national-list/filing-petition>. See also NOP 3011 National List Petition Guidelines.

- a. Removing paragraph (a)(10); and
- b. Redesignating paragraphs (a)(11) through (23) as paragraphs (a)(10) through (22).

§ 205.605 [Amended]

- 4. Amend § 205.605(b) by removing the substance “Magnesium carbonate—for use only in agricultural products labeled “made with organic (specified ingredients or food group(s)),” prohibited in agricultural products labeled “organic”.”

§ 205.606 [Amended]

- 5. Amend § 205.606 by:
 - a. Removing paragraphs (c), (e), (h), (o), and (s); and
 - b. Redesignating paragraphs (d), (f), (g), (i) through (n), (p) through (r), and (t) through (y) as paragraphs (c) through (t), respectively.

Dated: June 28, 2017.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2017-14006 Filed 7-5-17; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 956

[Doc. No. AMS-SC-16-0116; SC17-956-1 FIR]

Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: The Department of Agriculture is adopting, as a final rule, without change, an interim rule that implemented a recommendation from the Walla Walla Sweet Onion Marketing Committee (Committee) to decrease the assessment rate established for the 2017 and subsequent fiscal periods from \$0.22 to \$0.10 per 50-pound bag or equivalent of sweet onions handled. The Committee locally administers the marketing order and is comprised of producers and handlers of sweet onions operating within the area of production along with one public member. The interim rule was necessary to allow the Committee to reduce its financial reserve while still providing adequate funding to meet program expenses.

DATES: Effective July 7, 2017.

FOR FURTHER INFORMATION CONTACT:

Teresa Hutchinson or Gary Olson, Northwest Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326-2724, Fax: (503) 326-7440, or Email: Teresa.Hutchinson@ams.usda.gov or GaryD.Olson@ams.usda.gov.

Small businesses may obtain information on complying with this and other marketing order regulations by viewing a guide at the following Web site: <http://www.ams.usda.gov/rules-regulations/moa/small-businesses>; or by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or Email: Richard.Lower@ams.usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 956, as amended (7 CFR part 956), regulating the handling of sweet onions grown in the Walla Walla Valley of southeast Washington and northeast Oregon, hereinafter referred to as the “order.” The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the “Act.”

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 12866, 13771, 13563, and 13175.

This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB’s Memorandum titled “Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled ‘Reducing Regulation and Controlling Regulatory Costs’” (February 2, 2017).

Under the order, Walla Walla sweet onion handlers are subject to assessments. Funds to administer the order are derived from such assessments. Assessment rates issued under the order are intended to be applicable to all assessable Walla Walla sweet onions for the entire fiscal period and continue indefinitely until amended, suspended, or terminated. The Committee’s fiscal period begins on January 1 and ends on December 31.

In an interim rule published in the **Federal Register** on February 27, 2017, and effective on February 28, 2017 (82

FR 11789), § 956.202 was amended by decreasing the assessment rate established for Walla Walla sweet onions for the 2017 and subsequent fiscal periods from \$0.22 to \$0.10 per 50-pound bag or equivalent. The decrease in the assessment rate allows the Committee to reduce its financial reserve while still providing adequate funding to meet program expenses.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are 9 handlers of Walla Walla sweet onions subject to regulation under the order and approximately 30 producers in the regulated production area. Small agricultural service firms are defined by the Small Business Administration as those having annual receipts of less than \$7,500,000, and small agricultural producers are defined as those having annual receipts of less than \$750,000 (13 CFR 121.201).

During the 2016 marketing year, the Committee reported that approximately 304,500 50-pound bags or equivalents of Walla Walla sweet onions were shipped into the fresh market. Based on information reported by USDA’s Market News Service, the average 2016 marketing year f.o.b. shipping point price for the Walla Walla sweet onions was \$19.55 per 50-pound equivalent. Multiplying the \$19.55 average price by the shipment quantity of 304,500 50-pound equivalents yields an annual crop revenue estimate of \$5,952,975. The average annual revenue for each of the 9 handlers is therefore calculated to be \$661,442 (\$5,952,975 divided by 9), which is considerably less than the Small Business Administration threshold of \$7,500,000. Consequently, all of the Walla Walla sweet onion handlers could be classified as small entities.

In addition, based on information provided by the National Agricultural Statistics Service (NASS), the average producer price for Walla Walla sweet

onions for the 2011 through 2015 marketing years is \$16.24 per 50-pound equivalent. NASS has not released data regarding the 2016 marketing year at this time. Multiplying the 2011–2015 marketing year average price of \$16.24 by the estimated 2017 marketing year shipments of 325,000 50-pound equivalents yields an annual crop revenue estimate of \$5,278,000. The estimated average annual revenue for each of the 30 producers is therefore calculated to be approximately \$175,933 (\$5,278,000 divided by 30), which is less than the Small Business Administration threshold of \$750,000. In view of the foregoing, the majority of Walla Walla sweet onion producers, and all of the Walla Walla sweet onion handlers, may be classified as small entities.

This rule continues in effect the action that decreased the assessment rate established for the Committee and collected from handlers for the 2017 and subsequent fiscal periods from \$0.22 to \$0.10 per 50-pound bag or equivalent of Walla Walla sweet onions handled. The Committee also unanimously recommended 2017 expenditures of \$93,250. The assessment rate of \$0.10 is \$0.12 lower than the previously established assessment rate. Applying the \$0.10 per 50-pound bag or equivalent assessment rate to the Committee's 325,000 50-pound bag or equivalent crop estimate should provide \$32,500 in assessment income. Thus, income derived from handler assessments, along with interest, other income, and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. This action will allow the Committee to reduce its financial reserve while still providing adequate funding to meet program expenses.

This rule continues in effect the action that decreased the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers and may reduce the burden on producers.

In addition, the Committee's meeting was widely publicized throughout the Walla Walla sweet onion industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the December 6, 2016, meeting was a public meeting, and all entities, both large and small, were able to express views on this issue.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C.

Chapter 35), the order's information collection requirements have been previously approved by the OMB and assigned OMB No. 0581–0178, Vegetable and Specialty Crops. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This action imposes no additional reporting or recordkeeping requirements on either small or large Walla Walla sweet onion handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Comments on the interim rule were required to be received on or before April 28, 2017. One comment was received during the comment period from an individual who was outside of the regulated production area. The comment was generally opposed to all government regulation. In the comment, the commenter failed to specifically address any of the merits of the rule. Accordingly, no changes have been made to the rule, based on the comment received.

Therefore, for reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to: <https://www.regulations.gov/document?D=AMS-SC-16-0116-0001>.

This action also affirms information contained in the interim rule concerning Executive Orders 12866, 12988, 13175, and 13563; the Paperwork Reduction Act (44 U.S.C. Chapter 35); and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is hereby found that finalizing the interim rule, without change, as published in the **Federal Register** (82 FR 11789, February 27, 2017) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 956

Marketing agreements, Onions, Reporting and recordkeeping requirements.

PART 956—SWEET ONIONS GROWN IN THE WALLA WALLA VALLEY IN SOUTHEAST WASHINGTON AND NORTHEAST OREGON

■ Accordingly, the interim rule amending 7 CFR part 956, which was published at 82 FR 11789 on February

27, 2017, is adopted as final without change.

Dated: June 29, 2017.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2017–14177 Filed 7–5–17; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–3984; Directorate Identifier 2014–NM–119–AD; Amendment 39–18945; AD 2017–14–01]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2013–10–03, which applied to all Airbus Model A330–200, –200 Freighter, and –300 series airplanes; and Model A340–200, –300, –500, and –600 series airplanes. AD 2013–10–03 required one-time inspections for deformation and damage of the bogie beams of the main landing gear (MLG); repetitive inspections for damage and corrosion of the sliding piston sub-assembly on certain airplanes; and related investigative and corrective actions if necessary. This new AD removes Model A340–500 and 600 series airplanes from the applicability; removes certain one-time inspections of the MLG bogie beams and the sliding piston sub-assembly; revises certain compliance times; and requires replacement of certain MLGs with MLGs having an improved bogie beam, which constitutes terminating action for the repetitive inspections on the modified MLG. This AD was prompted by reports of corroded and cracked bogie beams under the bogie stop pad. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 10, 2017.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of August 10, 2017.

ADDRESSES: For Airbus service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice

Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 45 80; email: airworthiness.A330-A340@airbus.com; Internet <http://www.airbus.com>.

For Messier-Bugatti-Dowty service information identified in this final rule, contact Messier Services Americas, Customer Support Center, 45360 Severn Way, Sterling, VA 20166-8910; phone: 703-450-8233; fax: 703-404-1621; Internet: <https://techpubs.services/messier-dowty.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-2016-3984.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2016-3984; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800-647-5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057-3356; telephone 425-227-1138; fax 425-227-1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 to supersede AD 2013-10-03, Amendment 39-17456 (78 FR 31386, May 24, 2013) (“AD 2013-10-03”). AD 2013-10-03 applied to all Airbus Model A330-200, -200 Freighter, and -300 series airplanes; and Model A340-200, -300, -500, and -600 series airplanes. The SNPRM published in the **Federal Register** on March 22, 2017 (82 FR 14642) (“the SNPRM”). We preceded the SNPRM with a notice of proposed rulemaking (NPRM) that published in the **Federal Register** on

March 1, 2016 (81 FR 10540) (“the NPRM”). The NPRM was prompted by reports of corroded and cracked bogie beams under the bogie stop pad. The NPRM proposed to remove Model A340-500, and -600 series airplanes from the applicability, remove certain one-time inspections of the MLG bogie beams and the sliding piston sub-assembly; revise certain compliance times and provide, for certain airplanes, an optional terminating action for the repetitive actions. The SNPRM proposed to require replacement of a MLG having part number (P/N) 201252 series and P/N 201490 series with a MLG that has an improved bogie beam, which would constitute terminating action for the repetitive inspections on the modified MLG. We are issuing this AD to detect and correct damage or corrosion under the bogie stop pad of both MLG bogie beams; this condition could result in a damaged bogie beam and consequent detachment of the beam from the airplane, collapse of the MLG, or departure of the airplane from the runway, possibly resulting in damage to the airplane and injury to occupants.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2016-0108, dated June 8, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for certain Airbus Model A330-200, -200 Freighter, and -300 series airplanes; and Model A340-200 and -300 series airplanes. The MCAI states:

During a scheduled maintenance inspection on the Main Landing Gear (MLG), the bogie stop pad was found deformed and cracked. Upon removal of the bogie stop pad for replacement, the bogie beam was also found cracked. The results of a laboratory investigation indicated that an overload event had occurred and no fatigue propagation of the crack was evident. A second bogie beam crack was subsequently found on another aeroplane, located under a bogie stop pad which only had superficial paint damage.

This condition, if not detected and corrected, could lead to landing gear bogie detachment from the aeroplane, or landing gear collapse, or a runway excursion, possibly resulting in damage to the aeroplane and injury to the occupants and/or people on the ground.

To address this potential unsafe condition, EASA issued AD 2008-0223 [which corresponds to FAA AD 2010-02-10, Amendment 39-16181 (75 FR 4477, January 28, 2010)] to require accomplishment of a one-time detailed inspection under the bogie stop pad of both MLG bogie beams. As a result of the one-time inspection required by that [EASA] AD, numerous bogie stop pad were found corroded and a few cracked. The

one-time inspection was retained in EASA AD 2011-0211 [which corresponds to FAA AD 2013-10-03], which superseded EASA AD 2008-0223, which also introduced repetitive inspections, except for A340-500/-600 aeroplanes.

After EASA AD 2011-0211 was issued, further investigation led to the conclusion that the one-time inspection was no longer necessary and only the repetitive inspections should remain. In addition, it was determined that repetitive inspections were also necessary for MLG on A340-500/-600 aeroplanes.

Prompted by these conclusions, EASA issued AD 2014-0120, partially retaining the requirements of EASA AD 2011-0211, which was superseded, and introducing repetitive detailed inspections of the MLG on A340-500 and A340-600 aeroplanes. Subsequently, further analysis indicated that repetitive inspections of the MLG on A340-500/-600 aeroplanes were not necessary after all. In addition, the threshold for the inspection of MLG P/N 10-210 series was raised from 24 to 126 months, and Airbus developed a modification of the MLG P/N 10-210 series which provides an (optional) terminating action for the repetitive inspections.

Consequently, EASA AD 2014-0120 was revised to delete the requirements for A340-500/-600 aeroplanes, to amend the inspection threshold for MLG P/N 10-210 series, and to introduce an optional terminating action for aeroplanes with MLG P/N 10-210 series.

Since EASA AD 2014-0120R1 was issued, Airbus developed a modification (mod 205289) of the MLG P/N 201252 series and P/N 201490 series that must be embodied in service with Airbus SB A330-32-3275 or SB A340-32-4305. It was also identified that A340-500/-600 aeroplanes could be removed from the applicability of this [EASA] AD as no more actions were required on these aeroplanes.

For the reason described above, this [EASA] AD retains the requirements of EASA AD 2014-0120R1, which is superseded, removes the A340-500/-600 aeroplanes from the Applicability and requires the modification of the MLG P/N 201252 series and P/N 201490 series, which constitutes terminating action for the repetitive inspections required by this [EASA] AD.

The required actions include repetitive detailed inspections for damage and corrosion of the sliding piston sub-assembly, and related investigative and corrective actions if necessary. Related investigative actions include a test for indications of corrosion and damage to the bogie assembly base material, and a magnetic particle inspection for cracks, corrosion, and damage of the bogie beam. Corrective actions include repairing affected parts.

The required terminating action (for a MLG having P/N 201252 series or P/N 201490 series) and the optional terminating action (for a MLG having P/N 10-210 series) are modifications of the bogie beam of a MLG, which consist of installing a nickel under chrome

coating, a new bogie beam stop pad, and new stop pad brackets.

You may examine the MCAI in the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2016-3984.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received. Air Line Pilots Association, International supported the SNPRM.

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

Airbus has issued the following service information.

- Airbus Service Bulletin A330-32-3248, Revision 05, including Appendix 1, dated May 4, 2016; and Airbus Service Bulletin A340-32-4286, Revision 02, including Appendix 1, dated January 5, 2016; which describe procedures for doing an inspection for damage and corrosion of the MLG sliding piston sub-assembly, bogie beam stop pad and the bogie beam under the stop pad, and related investigative and corrective actions. These documents are distinct since they apply to different airplane models.

- Airbus Service Bulletin A330-32-3268, Revision 01, dated September 21, 2015, which describes procedures for modification of the bogie beam of a MLG having P/N 10-210 series on Model A330 airplanes that includes installing a nickel under chrome coating, a new bogie beam stop pad, and new stop pad brackets.

- Airbus Service Bulletin A330-32-3275, dated December 23, 2015, which describes procedures for modification of the bogie beam of a MLG having P/N 201252 series or P/N 201490 series on Model A330 airplanes that includes installing a nickel under chrome coating, a new bogie beam stop pad, and new stop pad brackets.

- Airbus Service Bulletin A340-32-4300, dated April 20, 2015; and Revision 01, dated September 21, 2015;

which describe procedures for modification of the bogie beam of a MLG having P/N 10-210 series on Model A340 airplanes that include installing a nickel under chrome coating, a new bogie beam stop pad, and new stop pad brackets. These service bulletins are distinct due to editorial revisions.

- Airbus Service Bulletin A340-32-4305, dated December 23, 2015, which describes procedures for modification of the bogie beam of a MLG having P/N 201252 series or P/N 201490 series on Model A340 airplanes that includes installing a nickel under chrome coating, a new bogie beam stop pad, and new stop pad brackets.

Messier-Bugatti-Dowty has issued the following service information.

- Messier-Bugatti-Dowty Service Bulletin A33/34-32-305, including Appendix A, dated April 13, 2015, which describes procedures for modification of the bogie beam of a MLG having MLG P/N 10-210 series that includes installing a nickel under chrome coating, a new bogie beam stop pad, and new stop pad brackets.

- Messier-Bugatti-Dowty Service Bulletin A33/34-32-306, Revision 1, including Appendix A, dated May 31, 2016, which describes procedures for modification of the bogie beam of a MLG having P/N 201252 series or P/N 201490 series that includes installing a nickel under chrome coating, a new bogie beam stop pad, and new stop pad brackets.

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

Costs of Compliance

We estimate that this AD affects 89 Model A330-200, -200 Freighter, and -300 series airplanes of U.S. registry.

We estimate that it will take about 13 work-hours per product to comply with the basic requirements of this AD. The average labor rate is \$85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be \$98,345, or \$1,105 per product.

Currently, there are no Model A340-200 or -300 series airplanes on the U.S. Register. However, if an affected airplane is imported and placed on the U.S. Register in the future, it would be subject to the same per-airplane cost specified above for the Model A330-200, -200 Freighter, and -300 series airplanes.

In addition, we estimate that any necessary follow-on actions will take about 24 work-hours and require parts costing \$78, for a cost of \$2,118 per

product. We have no way of determining the number of aircraft that might need these actions.

According to the manufacturer, all of the parts costs of the optional terminating action specified in this 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 costs in our cost estimate. We have received no definitive data that would enable us to provide the work-hour cost estimates for the optional terminating action specified in this 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 AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2013–10–03, Amendment 39–17456 (78 FR 31386, May 24, 2013), and adding the following new AD:

2017–14–01 Airbus: Amendment 39–18945; Docket No. FAA–2016–3984; Directorate Identifier 2014–NM–119–AD.

(a) Effective Date

This AD is effective August 10, 2017.

(b) Affected ADs

This AD replaces AD 2013–10–03, Amendment 39–17456 (78 FR 31386, May 24, 2013) (“AD 2013–10–03”).

(c) Applicability

This AD applies to Airbus airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category, all serial numbers, except those airplanes that have embodied Airbus Modification 204421 or Airbus Modification 205289 in production.

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

(2) Model A340–211, –212, –213, –311, –312, and –313 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Reason

This AD was prompted by reports of corroded and cracked bogie beams under the bogie stop pad. We are issuing this AD to detect and correct damage or corrosion under the bogie stop pad of both main landing gear (MLG) bogie beams; this condition could result in a damaged bogie beam and consequent detachment of the beam from the airplane, collapse of the MLG, or departure of the airplane from the runway, possibly resulting in damage to the airplane and injury to occupants.

(f) Compliance

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

(g) Repetitive Inspections, Related Investigative Actions, and Corrective Actions

For Model A330–200, –200 Freighter, and –300 series airplanes; and Model A340–200 and –300 series airplanes; equipped with a MLG having part number (P/N) 201252 series, P/N 201490 series, or P/N 10–210 series: Do the applicable actions required by paragraph (g)(1) or (g)(2) of this AD.

(1) For airplanes equipped, as of the effective date of this AD, with a MLG that has been previously inspected, as specified in Airbus Service Bulletin A330–32–3220, Airbus Service Bulletin A330–32–3248, Airbus Service Bulletin A340–32–4264, or Airbus Service Bulletin A340–32–4286, as applicable: At the applicable times specified in paragraphs (h)(1) and (h)(2) of this AD, do a detailed inspection for damage (e.g., cracking and fretting) and corrosion of the MLG sliding piston sub-assembly, bogie beam stop pad, and the bogie beam under the stop pad; and do all applicable related investigative and corrective actions; in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–32–3248, Revision 05, including Appendix 1, dated May 4, 2016; or Airbus Service Bulletin A340–32–4286, Revision 02, including Appendix 1, dated January 5, 2016; as applicable; except as required by paragraph (j) of this AD. Do all applicable related investigative and corrective actions before further flight. Repeat the inspection of the MLG sliding piston sub-assembly, bogie beam stop pad, and the bogie beam under the stop pad, thereafter, at intervals not to exceed 2,500 flight cycles or 24 months, whichever occurs first.

(2) For airplanes equipped, as of the effective date of this AD, with a MLG that has not been previously inspected, as specified in Airbus Service Bulletin A330–32–3220, Airbus Service Bulletin A330–32–3248, Airbus Service Bulletin A340–32–4264, or Airbus Service Bulletin A340–32–4286, as applicable: At the applicable times specified in paragraphs (h)(3) and (h)(4) of this AD, do a detailed inspection for damage (e.g., cracking and fretting) and corrosion of the MLG sliding piston sub-assembly, bogie beam stop pad, and the bogie beam under the stop pad; and do all applicable related investigative and corrective actions; in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–32–3248, Revision 05, including Appendix 1, dated May 4, 2016; or Airbus Service Bulletin A340–32–4286, Revision 02, including Appendix 1, dated January 5, 2016; as applicable; except as required by paragraph (j) of this AD. Do all applicable related investigative and corrective actions before further flight. Repeat the inspection of the MLG sliding piston sub-assembly, bogie beam stop pad, and the bogie beam under the stop pad, thereafter, at intervals not to exceed 2,500 flight cycles or 24 months, whichever occurs first.

(h) Compliance Times for the Actions Required by Paragraph (g) of This AD

Do the applicable actions required by paragraph (g) of this AD at the applicable time specified in paragraph (h)(1), (h)(2), (h)(3), or (h)(4) of this AD.

(1) For airplanes identified in paragraph (g)(1) of this AD having a MLG P/N 201252 series or P/N 201490 series: Before the accumulation of 2,500 total flight cycles or 24 months, whichever occurs first since the later of the times specified in paragraphs (h)(1)(i) and (h)(1)(ii) of this AD.

(i) Since first flight after a MLG overhaul.

(ii) Since first flight after the most recent accomplishment of an inspection of the MLG, as specified in Airbus Service Bulletin A330–32–3220, Airbus Service Bulletin A330–32–3248, Airbus Service Bulletin A340–32–4264, or Airbus Service Bulletin A340–32–4286, as applicable.

(2) For airplanes identified in paragraph (g)(1) of this AD having a MLG P/N 10–210 series: Before the accumulation of 126 months since first flight of the MLG on an airplane or since first flight on an airplane after the most recent inspection of the MLG, as specified in Airbus Service Bulletin A330–32–3248, or Airbus Service Bulletin A340–32–4286, as applicable.

(3) For airplanes identified in paragraph (g)(2) of this AD having a MLG P/N 201252 series or P/N 201490 series: At the later of the times specified in paragraphs (h)(3)(i) and (h)(3)(ii) of this AD.

(i) Before the accumulation of 2,500 total flight cycles or 24 months, whichever occurs first since the later of the times specified in paragraphs (h)(3)(i)(A) and (h)(3)(i)(B) of this AD.

(A) Since first flight of the MLG on an airplane.

(B) Since first flight after a MLG overhaul.

(ii) Within 16 months after the effective date of this AD.

(4) For airplanes identified in paragraph (g)(2) of this AD having a MLG P/N 10–210 series: Before the accumulation of 126 months since first flight of the MLG on an airplane.

(i) Optional Overhaul

For the purposes of this AD, accomplishment of a MLG overhaul is acceptable instead of an inspection required by paragraph (g) of this AD. The inspections required by paragraph (g) of this AD are not terminated by a MLG overhaul, but are required at the next applicable compliance time required by paragraph (g) of this AD.

(j) Service Information Exception

If the applicable service information specified in paragraph (g) of this AD specifies to contact Messier-Dowty for instructions, or if any repair required by paragraph (g) of this AD is beyond the maximum repair allowance specified in the applicable service information specified in paragraph (g) of this AD: Before further flight, repair 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).

(k) MLG Modification

For airplanes equipped with a MLG having P/N 201252 series or a MLG having P/N 201490 series: Before the accumulation of 126 months since first flight of the MLG on an airplane or since first flight on an airplane after the most recent overhaul as of the

effective date of this AD, as applicable, replace that MLG with a MLG having P/N 201252 series or a MLG having P/N 201490 series that has an improved bogie beam, as defined in Airbus Service Bulletin A330-32-3275, dated December 23, 2015; or Airbus Service Bulletin A340-32-4305, dated December 23, 2015; as applicable; and in accordance with the Accomplishment Instructions of Messier-Bugatti-Dowty Service Bulletin A33/34-32-306, Revision 1, including Appendix A, dated May 31, 2016.

(l) Terminating Action Limitation

Accomplishment of corrective actions required by paragraph (g) of this AD does not constitute terminating action for the repetitive inspections required by this AD.

(m) Terminating Action for Certain Airplanes

(1) For airplanes with any MLG having P/N 10-210 series: Modification of the bogie beam of each MLG having P/N 10-210 series, as specified in Airbus Service Bulletin A330-32-3268, Revision 01, dated September 21, 2015; or Airbus Service Bulletin A340-32-4300, dated April 20, 2015; or Revision 01, dated September 21, 2015; as applicable; and in accordance with the Accomplishment Instructions of Messier-Bugatti-Dowty Service Bulletin A33/34-32-305, including Appendix A, dated April 13, 2015; constitutes terminating action for the repetitive inspection requirements of this AD for that airplane, provided that, following in-service modification, the airplane remains in the post-service bulletin configuration.

(2) For airplanes with any MLG having P/N 201252 series or P/N 201490 series: Installation of both left-hand and right-hand MLG having P/N 201252 series or P/N 201490 series that has an improved bogie beam, as required by paragraph (k) of this AD, constitutes terminating action for the repetitive inspections requirements of this AD for that airplane, provided that, following in-service modification, the airplane remains in the post-service bulletin configuration.

(n) Parts Installation Prohibition

Do not install on any airplane a pre-Airbus modification MLG having P/N 201252 series or a pre-Airbus modification MLG having P/N 201490 series, as specified in paragraph (n)(1) or (n)(2) of this AD, as applicable; or a pre-Airbus modification MLG having P/N 10-210 series, as specified in paragraph (n)(3) or (n)(4) of this AD, as applicable.

(1) For any airplane that is in a post-Airbus Modification 205289 configuration, or on which the modification required by paragraph (k) of this AD has been done: From the effective date of this AD.

(2) For any airplane that is in a pre-Airbus Modification 205289 configuration, or on which the modification required by paragraph (k) of this AD has not been done: After modification of that airplane, as required by paragraph (k) of this AD.

(3) For any airplane that is in post-Airbus Modification 204421 configuration, or on which the modification specified in paragraph (m)(1) of this AD has been done: From the effective date of this AD.

(4) For any airplane that is in pre-Airbus Modification 204421, or on which the

modification specified in paragraph (m)(1) of this AD has not been done: After modification of that airplane, as specified in paragraph (m)(1) of this AD.

(o) Credit for Previous Actions

(1) This paragraph provides credit for the actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using the service information identified in paragraphs (o)(1)(i) through (o)(1)(vii) or (o)(2) of this AD, as applicable.

(i) Airbus Service Bulletin A330-32-3248, dated October 5, 2011, which is not incorporated by reference in this AD.

(ii) Airbus Service Bulletin A330-32-3248, Revision 01, including Appendix 01, dated December 13, 2012, which was incorporated by reference in AD 2013-10-03.

(iii) Airbus Service Bulletin A330-32-3248, Revision 02, dated April 16, 2014, which is not incorporated by reference in this AD.

(iv) Airbus Service Bulletin A330-32-3248, Revision 03, dated November 27, 2014, which is not incorporated by reference in this AD.

(v) Airbus Service Bulletin A330-32-3248, Revision 04, dated January 5, 2016, which is not incorporated by reference in this AD.

(vi) Airbus Service Bulletin A340-32-4286, dated October 5, 2011, which was incorporated by reference in AD 2013-10-03.

(vii) Airbus Service Bulletin A340-32-4286, Revision 01, dated November 27, 2014, which is not incorporated by reference in this AD.

(2) This paragraph provides credit for the actions required by paragraph (k) of this AD, if those actions were performed before the effective date of this AD using Messier-Bugatti-Dowty Service Bulletin A33/34-32-306, dated December 21, 2015, which is not incorporated by reference in this AD.

(p) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, International 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 manager of the International Branch, send it to the attention of the person identified in paragraph (q)(2) of this AD. Information may be emailed to: 9-ANM-116-AMOC-REQUESTS@faa.gov.

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(ii) AMOCs approved previously for AD 2013-10-03 are not approved as AMOCs with this AD.

(2) *Contacting the Manufacturer*: As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be

accomplished using a method approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; or EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC)*: Except as required by paragraph (j) of this AD: If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(q) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2016-0108, dated June 8, 2016, for related information. This MCAI may be found in the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2016-3984.

(2) For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057-3356; telephone 425-227-1138; fax 425-227-1149.

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

(r) Material Incorporated by Reference

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

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

(i) Airbus Service Bulletin A330-32-3248, Revision 05, including Appendix 1, dated May 4, 2016.

(ii) Airbus Service Bulletin A330-32-3268, Revision 01, dated September 21, 2015.

(iii) Airbus Service Bulletin A330-32-3275, dated December 23, 2015.

(iv) Airbus Service Bulletin A340-32-4286, Revision 02, including Appendix 1, dated January 5, 2016.

(v) Airbus Service Bulletin A340-32-4300, dated April 20, 2015.

(vi) Airbus Service Bulletin A340-32-4300, Revision 01, dated September 21, 2015.

(vii) Airbus Service Bulletin A340-32-4305, dated December 23, 2015.

(viii) Messier Bugatti Dowty Service Bulletin A33/34-32-305, including Appendix A, dated April 13, 2015.

(ix) Messier Bugatti Dowty Service Bulletin A33/34-32-306, Revision 1, including Appendix A, dated May 31, 2016.

(3) For Airbus service information identified in this AD, contact Airbus SAS,

Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 45 80; email: airworthiness.A330-A340@airbus.com; Internet <http://www.airbus.com>.

(4) For Messier-Bugatti-Dowty service information identified in this final rule, contact Messier Services Americas, Customer Support Center, 45360 Severn Way, Sterling, VA 20166-8910; phone: 703-450-8233; fax: 703-404-1621; Internet: <https://techpubs.services/messier-dowty.com>.

(5) 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.

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

Issued in Renton, Washington, on June 23, 2017.

Chris Spangenberg,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017-13949 Filed 7-5-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2017-0125; Directorate Identifier 2016-NM-193-AD; Amendment 39-18946; AD 2017-14-02]

RIN 2120-AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model DHC-8-401 and DHC-8-402 airplanes. This AD was prompted by a report that a pilot was unable to move the rudder pedal due to an obstruction. This AD requires an inspection to determine if wiring shrouds are present, and modifying the wiring shrouds if necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 10, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 10, 2017.

ADDRESSES: For service information identified in this final rule, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416-375-4000; fax 416-375-4539; email thd.qseries@aero.bombardier.com; Internet <http://www.bombardier.com>. 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-2017-0125.

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-2017-0125; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800-647-5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE-171, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 516-228-7318; fax: 516-794-5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model DHC-8-401 and DHC-8-402 airplanes. The NPRM published in the **Federal Register** on March 2, 2017 (82 FR 12301). The NPRM was prompted by a report that a pilot was unable to move the rudder pedal due to an obstruction. The NPRM proposed to require an inspection to determine if wiring shrouds are present, and modifying the wiring shrouds if necessary. We are issuing this AD to prevent an obstruction that could prevent rudder pedal movement during critical phases of flight or ground operations,

potentially resulting in loss of control of the airplane.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF-2016-27, dated September 14, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for certain Bombardier, Inc., Model DHC-8-401 and DHC-8-402 airplanes. The MCAI states:

An operator reported that the flying pilot was unable to move the rudder pedal due to an obstruction caused by the non-flying pilot's foot. The shoe belonging to the non-flying pilot was placed between the rudder pedal and the newly installed wiring shroud and prevented rudder pedal movement. The wiring shroud was installed to support the wire harnesses installed below the cockpit instrument panel.

If not corrected, this condition could prevent rudder movement during critical phases of flight or ground operation, and result in loss of control of the aeroplane.

This [Canadian] AD was issued to re-work the wiring shrouds to eliminate potential for obstruction.

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-2017-0125.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM and the FAA's response to each comment.

Support for the NPRM

The Air Line Pilots Association, International, stated that it supports the NPRM.

Request To Refer to Updated Service Information and Provide Credit

Horizon Air requested that we revise the proposed AD to refer to the newest version of the service information, Bombardier Service Bulletin 84-25-169, Revision B, dated February 17, 2017. Horizon Air also asked that we provide credit for previous actions done using Bombardier Service Bulletin 84-25-169, Revision A, dated April 25, 2016.

We agree with the commenter's requests. We have determined that the new service information does not require any additional actions for airplanes modified using Revision A. We have revised this AD to refer to Bombardier Service Bulletin 84-25-169, Revision B, dated February 17, 2017. We have also added paragraph (h) to this AD to provide credit for previous actions and redesignated subsequent paragraphs accordingly.

Request To Reference Only the Actions Required for Compliance

Horizon Air requested that we revise the requirements of the proposed AD to mandate only the actions in paragraph 3.B., “Procedure” of the Accomplishment Instructions of Bombardier Service Bulletin 84–25–169, Revision B, dated February 17, 2017, rather than the entire Accomplishment Instructions. Horizon Air explained that requiring the job set-up and close-out sections of the service information restricts an operator’s ability to perform other maintenance at the same time as incorporating the service information.

We agree with the commenter’s request because it provides operators additional flexibility, while still ensuring the unsafe condition is

corrected. We have revised paragraph (g) of this AD accordingly.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

We reviewed Bombardier Service Bulletin 84–25–169, Revision B, dated February 17, 2017. This service information describes procedures for an inspection to verify if wiring shrouds are installed, and modification of any existing wiring shrouds. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

Costs of Compliance

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

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	1 work-hour × \$85 per hour = \$85	\$0	\$85	\$6,970

We estimate the following costs to do any necessary modifications that would

be required based on the results of the inspection. We have no way of

determining the number of aircraft that might need these modifications:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Modification of wiring shrouds	7 work-hours × \$85 per hour = \$595	\$71	\$666

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 AD will not have federalism implications under

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–14–02 Bombardier, Inc.: Amendment 39–18946; Docket No. FAA–2017–0125; Directorate Identifier 2016–NM–193–AD.

(a) Effective Date

This AD is effective August 10, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model DHC-8-401 and DHC-8-402 airplanes, certificated in any category, as identified in Bombardier Service Bulletin 84-25-169, Revision B, dated February 17, 2017.

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/furnishings.

(e) Reason

This AD was prompted by a report that a pilot was unable to move the rudder pedal due to an obstruction caused by the non-flying pilot's foot. We are issuing this AD to prevent an obstruction that could prevent rudder pedal movement during critical phases of flight or ground operations, potentially resulting in loss of control of the airplane.

(f) Compliance

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

(g) Inspection and Modification of Wiring Shrouds

Within 6 months after the effective date of this AD, do a one-time inspection to determine if wiring shrouds are installed, in accordance with paragraph 3.B., "Procedure," of the Accomplishment Instructions of Bombardier Service Bulletin 84-25-169, Revision B, dated February 17, 2017.

(1) If the airplane does not have wiring shrouds installed, no further action is required by this AD.

(2) If the airplane has wiring shrouds installed, before further flight, modify the wiring shrouds in accordance with paragraph 3.B., "Procedure," of the Accomplishment Instructions of Bombardier Service Bulletin 84-25-169, Revision B, dated February 17, 2017.

Note 1 to paragraph (g) of this AD: Installation of wiring shrouds was provided in Bombardier Modification Summary Package (ModSum) IS4Q2500035-1, Revision A, dated July 26, 2011; Revision B, dated October 10, 2013; Revision C, dated March 26, 2014; or Revision D, dated February 26, 2016; or ModSum IS4Q2500035-2, Revision A, dated July 26, 2011; Revision B, dated October 10, 2013; Revision C, dated March 26, 2014; or Revision D, dated February 26, 2016.

(h) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 84-25-169, Revision A, dated April 25, 2016.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE-170, 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 ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7300; fax 516-794-5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE-170, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF-2016-27, dated September 14, 2016, for related information. This MCAI may be found in the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-0125.

(2) For more information about this AD, contact Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE-171, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 516-228-7318; fax: 516-794-5531.

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

(k) Material Incorporated by Reference

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

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

(i) Bombardier Service Bulletin 84-25-169, Revision B, dated February 17, 2017.

(ii) Reserved.

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

(4) 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.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://>

www.archives.gov/federal-register/cfr/ibr-locations.html.

Issued in Renton, Washington, on June 23, 2017.

Chris Spangenberg,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017-13950 Filed 7-5-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF LABOR**Occupational Safety and Health Administration****29 CFR Part 1910**

[Docket No. OSHA-2013-0002]

RIN 1218-AB80

Walking-Working Surfaces and Personal Protective Equipment (Fall Protection Systems) for General Industry; Approval of Collections of Information

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Final rule.

SUMMARY: This technical amendment revises an OSHA regulation to reflect the Office of Management and Budget's (OMB) approval of the collections of information contained in the general industry Walking-Working Surfaces and Personal Protective Equipment (Fall Protection Systems) standards.

DATES: Effective July 6, 2017.

FOR FURTHER INFORMATION CONTACT: Todd Owen, OSHA, Directorate of Standards and Guidance, Room N-3609, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693-2222.

SUPPLEMENTARY INFORMATION: On November 18, 2016, OSHA published a final rule revising and updating the general industry Walking-Working Surfaces and Personal Protective Equipment (Fall Protection Systems) standards (29 CFR 1910, subparts D and I) (81 FR 82494) to provide workers with greater protections from slip, trip and fall hazards. This technical amendment adds to § 1910.8, which displays OSHA's approved general industry collections of information under the Paperwork Reduction Act of 1985 (44 U.S.C. 3501 *et seq.*), the OMB control number for the new collection requirements in the final rule.

Final subpart D contains three new collections of information. First, final § 1910.23(b)(10) requires that employers ensure any ladder with structural or

other defects be tagged immediately with “Dangerous: Do Not Use” or similar language and removed from service until “repaired . . . or replaced.” The information will alert employers and workers that the ladder is not safe and must not be used.

Second, final § 1910.27(b)(1)(i) requires, before any rope descent system is used, that the building owner inform the employer in writing that the building owner has identified, tested, certified, and maintained each anchorage so it is capable of supporting at least 5,000 pounds (268 kg), in any direction for each employee attached. The information must be based on an annual inspection by a qualified person and certification of each anchorage by a qualified person, as necessary, and at least every 10 years. The information will assure employers and workers that the building owner has inspected, tested and certified the anchorage, which the employer may not own or have any control over, as safe to use. A related provision, final § 1910.27(b)(1)(ii), requires that the employer ensure no employee uses any anchorage before the employer has obtained written information from the building owner indicating that each anchorage meets the requirements of § 1910.27(b)(1)(i). The employer must keep the information for the duration of the job. The information will assure employers and workers that the anchorages employers use, but may not own or have any control over, are safe to use.

Third, final § 1910.28(b)(1)(ii) specifies that when employers can demonstrate that it is not feasible or creates a greater hazard to use guardrail, safety net, or personal fall protection systems on residential roofs, they must develop and implement a written fall protection plan that meets the requirements of 29 CFR 1926.502(k) and training that meets the requirements of 29 CFR 1926.503(a) and (c). The information collection ensures that employers and workers will know what alternative measures will be used at a given worksite to provide an appropriate level of protection when conventional fall protection is not feasible.

These requirements are contained in the Information Collection Request (ICR) approved by OMB under control number 1218–0199, which OSHA included in the final rule published in the **Federal Register** (81 FR 82978–80). The collections of information in final subpart D are necessary to ensure workers are protected from death or injury from falls from elevated heights.

Final subpart I expands the existing collections of information contained in

the hazard assessment and verification requirements in 29 CFR 1910.132 to include assessments for workers who use personal fall protection systems (29 CFR 1910.140). These requirements are contained in the Information Collection Request (ICR) approved by OMB under control number 1218–0205, which OSHA included in the final rule published in the **Federal Register** (81 FR 82978–80).

Additional public comment on the information collections in the final rule is not necessary. The public already has had the opportunity to comment on the collections of information and OMB has approved them. This revision of § 1910.8 is a purely technical step to increase public awareness of OMB’s approval of the collections of information.

Authority and Signature

Dorothy Dougherty, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor’s Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on June 28, 2017.

Dorothy Dougherty,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

For the reasons stated in the preamble, the Occupational Safety and Health Administration amends 29 CFR part 1910 as follows:

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Subpart A—[Amended]

- 1. Revise the authority citation for subpart A to read as follows:

Authority: 29 U.S.C. 653, 655, 657; Secretary of Labor’s Order Numbers 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31159), 4–2010 (75 FR 55355), or 1–2012 (77 FR 3912), as applicable.

Sections 1910.6, 1910.7, 1910.8 and 1910.9 also issued under 29 CFR 1911. Section 1910.7(f) also issued under 31 U.S.C. 9701; 29 U.S.C. 9a; 5 U.S.C. 553; Public Law 106–113 (113 Stat. 1501A–222); Public Law 11–8 and 111–317; and OMB Circular A–25 (dated July 8, 1993) (58 FR 38142, July 15, 1993).

- 2. Amend § 1910.8 by adding to the table, in the proper numerical sequence, the entries for “1910.27,” and “1910.28,” to read as follows:

§ 1910.8 OMB control numbers under the Paperwork Reduction Act.

* * * * *				
29 CFR citation			OMB control No.	
* * *	* * *	* * *	* * *	* * *
1910.27	.....		1218–0199	
1910.28	.....		1218–0199	
* * *	* * *	* * *	* * *	* * *

[FR Doc. 2017–14122 Filed 7–5–17; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0524]

Drawbridge Operation Regulation; Mill River, New Haven, CT

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Chapel Street Bridge across the Mill River, mile 0.4 at New Haven, Connecticut. This deviation is necessary to complete bridge deck replacement as well as various repairs. This deviation allows the bridge to open for the passage of vessels upon two hours of advance notice as well as a ten day closure of the draw to all vessel traffic.

DATES: This deviation is effective from 12:01 a.m. on July 10, 2017 through 11:59 p.m. on September 9, 2017.

ADDRESSES: The docket for this deviation, USCG–2017–0524, is available at <http://www.regulations.gov>. Type the docket number in the “SEARCH” box and click “SEARCH”. Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email James M. Moore, Bridge Management Specialist, First District Bridge Branch, U.S. Coast Guard; telephone 212–514–4334, email james.m.moore2@uscg.mil.

SUPPLEMENTARY INFORMATION: The City of New Haven, the owner of the bridge, requested a temporary deviation from the normal operating schedule to facilitate rehabilitation of the bridge, specifically replacement of the bridge deck. The Chapel Street Bridge, across

the Mill River, mile 0.4 at New Haven, Connecticut offers mariners a vertical clearance of 7.9 feet at mean high water and 14 feet at mean low water in the closed position. The existing drawbridge operating regulations are listed at 33 CFR 117.213(d).

Under this temporary deviation the Chapel Street Bridge will operate as follows: From 12:01 a.m. July 10, 2017 until 11:59 p.m. July 26, 2017, the Chapel Street Bridge will open for the passage of vessels requiring an opening provided two hours of advance notice is furnished to the owner of the bridge; except that, from 7:30 a.m. to 8:30 a.m. and 4:45 p.m. to 5:45 p.m., Monday through Friday, except Federal holidays, the draw need not open for the passage of vessel traffic. The bridge will remain closed to all vessels requiring an opening from 12:01 a.m. July 27, 2017 until 11:59 p.m. August 7, 2017 to facilitate the pouring/curing of new bridge deck material. From 12:01 a.m. August 8, 2017 until 11:59 p.m. September 9, 2017 the bridge will open for the passage of vessels requiring an opening provided two hours of advance notice is furnished to the owner of the bridge; except that from 7:30 a.m. to 8:30 a.m. and 4:45 p.m. to 5:45 p.m., Monday through Friday, except Federal holidays, the draw need not open for the passage of vessel traffic.

The bridge routinely opens for commercial vessels. Nevertheless, outreach with mariners has indicated the requirement for two hours of advance notice will not impede routine waterway operations. Mariners also offered no objection to a ten day closure of the draw in order to complete the necessary deck replacement. The concrete pour and curing process can be accomplished in four days, but a ten day closure period has been requested in order to take inclement weather into account. The bridge will resume operations as soon as the curing process has been completed.

Vessels that can pass under the bridge without an opening may do so at all times. The bridge will be not able to open for emergencies. There is no alternate route for vessels to pass.

The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 30, 2017.

C.J. Bisignano,
*Supervisory Bridge Management Specialist,
First Coast Guard District.*

[FR Doc. 2017-14164 Filed 7-5-17; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2017-0231]

Drawbridge Operation Regulation; Hutchinson River, New York, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from drawbridge regulation; modification.

SUMMARY: The Coast Guard has modified a temporary deviation from the operating schedule that governs the Hutchinson River Parkway Bridge across the Hutchinson River, mile 0.9 at New York, New York. This deviation is necessary to complete application of protective coating on the bridge as well as maintenance of operating machinery. This modified deviation allows the bridge to remain in the closed-to-navigation position for periods of up to two weeks over the course of the summer months in order to expedite work efforts.

DATES: This deviation is effective without actual notice from July 6, 2017 through 12:01 a.m. on September 29, 2017. For the purposes of enforcement, actual notice will be used from 12:01 a.m. on June 30, 2017 until July 6, 2017.

ADDRESSES: The docket for this deviation, USCG-2017-0231 is available at <http://www.regulations.gov>. Type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this modified temporary deviation, call or email James M. Moore, Bridge Management Specialist, First District Bridge Branch, U.S. Coast Guard; telephone 212-514-4334, email james.m.moore2@uscg.mil.

SUPPLEMENTARY INFORMATION: The New York City Department of Transportation, the owner of the bridge, requested a temporary deviation from the normal operating schedule to facilitate application of protective coating to the bridge as well as maintenance of

operating machinery. The Hutchinson River Parkway Bridge, across the Hutchinson River, mile 0.9 at New York, New York has a vertical clearance of 30 feet at mean high water and 38 feet at mean low water in the closed position. The existing drawbridge operating regulations are listed at 33 CFR 117.793(b).

On May 1, 2017, the Coast Guard published a temporary deviation entitled "Drawbridge Operation Regulation; Hutchinson River, New York, NY" in the **Federal Register** (82 FR 20257). Under that temporary deviation, between April 3, 2017 and September 29, 2017, the draw of the Hutchinson River Parkway Bridge would remain closed to navigation for a period not to exceed 7 days; the draw would then open for vessels in accordance with established operating regulations for a period not to exceed another 7 days, after which the cycle would repeat.

Due to project delays prompted by inclement weather and bridge equipment failure, the New York City Department of Transportation has requested that between June 9, 2017 and August 31, 2017 the draw of the Hutchinson River Parkway Bridge remain closed to navigation for a period not to exceed 14 days; the draw will then open for vessels in accordance with established operating regulations for a period not to exceed 7 days, after which the cycle will repeat. Between September 1, 2017 and September 29, 2017, the draw will remain closed to navigation for a period not to exceed 7 days; the draw will then open for vessels in accordance with established operation regulations for another 7 days, after which the cycle will repeat.

Vessels that can pass under the bridge without an opening may do so at all times. The bridge will not be able to open for emergencies. There is no alternate route for vessels to pass.

The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transit to minimize any impact caused by the temporary deviation.

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

Dated: June 30, 2017.

C.J. Bisignano,

*Supervisory Bridge Management Specialist,
First Coast Guard District.*

[FR Doc. 2017-14171 Filed 7-5-17; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2017-0595]

Drawbridge Operation Regulation; Jamaica Bay, Queens, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Marine Parkway (Gil Hodges) Bridge across Rockaway Inlet, mile 3.0, at Queens, NY. This deviation is necessary to complete bridge maintenance and repairs. This deviation allows the bridge to remain in the closed position.

DATES: This deviation is effective without actual notice from July 6, 2017 through 4 p.m. on December 22, 2017. For the purposes of enforcement, actual notice will be used from 8 a.m. on July 1, 2017 until July 6, 2017.

ADDRESSES: The docket for this deviation, USCG-2017-0595 is available at <http://www.regulations.gov>. Type the docket number in the "SEARCH" box and click "SEARCH". Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email James M. Moore, Bridge Management Specialist, First District Bridge Branch, U.S. Coast Guard; telephone 212-514-4334, email james.m.moore2@uscg.mil.

SUPPLEMENTARY INFORMATION: The owner of the bridge, the Metropolitan Transportation Authority, requested a temporary deviation in order to complete rehabilitation work associated with the replacement of lift span machinery. The Marine Parkway (Gil Hodges) Bridge across Rockaway Inlet, mile 3.0 at Queens, New York has a vertical clearance of 55 feet at mean high water and 59 feet at mean low water in the closed position. The existing drawbridge operating regulations are listed at 33 CFR 117.795(a).

The temporary deviation will allow the owner of the Marine Parkway (Gil

Hodges) Bridge to require vessels seeking an opening of the draw to submit a minimum of two hours of advance notice on weekdays (Monday through Friday) between the hours of 8 a.m. and 4 p.m. from July 1, 2017 to December 22, 2017.

The waterway is transited by seasonal recreational traffic as well as commercial vessels, largely tug and barge combinations. The 55 foot vertical clearance while the bridge is in the closed position offers the bulk of commercial traffic sufficient room to transit under the bridge in the closed position. Vessels that can pass under the bridge without an opening may do so at all times. The bridge will be able to open for emergencies. There is no immediate alternate route for vessels unable to pass through the bridge when in the closed position.

The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by this temporary deviation.

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

Dated: June 29, 2017.

C.J. Bisignano,

*Supervisory Bridge Management Specialist,
First Coast Guard District.*

[FR Doc. 2017-14103 Filed 7-5-17; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2017-0345]

RIN 1625-AA00

Safety Zone; Oswego Harborfest 2017 Breakwall Fireworks Display; Oswego Harbor, Oswego, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on Oswego Harbor, Oswego, NY. This safety zone is intended to restrict vessels from a portion of the Oswego Harbor during the Oswego Harborfest 2017 Breakwall Fireworks Display. This

temporary safety zone is necessary to protect mariners and vessels from the navigational hazards associated with a fireworks display.

DATES: This rule is effective from 9:15 p.m. on July 27, 2017, until 10:45 p.m. July 28, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2017-0345 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 LT Michael Collet, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716-843-9322, email SectorBuffaloMarineSafety@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 doing so would be impracticable. The final details of this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be impracticable because it would inhibit the Coast Guard's ability to protect mariners and vessels from the hazards associated with a maritime fireworks display.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register** because doing so would be impracticable and contrary to the public interest. Delaying the

effective date would be contrary to the rule's objectives of ensuring safety of life on the navigable waters and protection of persons and vessels near the event.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Buffalo (COTP) has determined that a maritime fireworks show presents significant risks to public safety and property. Such hazards include premature and accidental detonations, dangerous projectiles, and falling or burning debris. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the fireworks show is taking place.

IV. Discussion of the Rule

This rule establishes a safety zone on July 27, 2017, or in the event of inclement weather July 28, 2017, from 9:15 p.m. until 10:45 p.m. The safety zone will encompass all waters of the Oswego Harbor, Oswego, NY contained within a 350-foot radius of the breakwall between positions 43°27'54" N., 076°31'24" W. then northeast to 43°27'59" N., 076°31'12" W. (NAD 83).

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for a relatively short time. Also, the safety zone is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

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 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.

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.ID, 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 it is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule establishes a safety zone. It is categorically excluded under section 2.B.2, figure 2-1, paragraph 34(g) of the Instruction, which pertains to establishment of safety zones. A Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated in the ADDRESSES section of this preamble.

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 record keeping 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.T09-0345 to read as follows:

§ 165.T09-0345 Safety Zone; Oswego Harborfest 2017 Breakwall Fireworks Display; Oswego Harbor, Oswego, NY.

(a) *Location.* This zone will encompass all waters of the Oswego Harbor, Oswego, NY contained within a 350-foot radius of the breakwall between positions 43°27'54" N., 076°31'24" W. then northeast to 43°27'59" N., 076°31'12" W. (NAD 83).

(b) *Enforcement period.* This rule will be enforced from 9:15 p.m. until 10:45 p.m. on July 27, 2017, or in the event of inclement weather, on July 28, 2017, from 9:15 p.m. until 10:45 p.m.

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

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

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

(4) Vessel operators desiring to enter or operate within the safety zone must contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: June 26, 2017.

J.S. Dufresne,

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

[FR Doc. 2017-14150 Filed 7-5-17; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2017-0440]

RIN 165-AA00

Safety Zones; Marine Events Held in the Captain of the Port Long Island Sound Zone

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing three temporary safety zones for fireworks displays within the Captain of the Port (COTP) Long Island Sound (LIS) Zone. This temporary final rule is necessary to provide for the safety of life on navigable waters during these events. Entry into, transit through,

mooring or anchoring within these limited access areas is prohibited unless authorized by the COTP LIS.

DATES: This rule is effective without actual notice from July 6, 2017 through July 8, 2017. For the purposes of enforcement, actual notice will be used from July 3, 2017, through July 6, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2017-0440 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, contact Petty Officer Amber Arnold, Prevention Department, Coast Guard Sector Long Island Sound, telephone (203) 468-4583, email Amber.D.Arnold@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
LIS Long Island Sound
NPRM Notice of Proposed Rulemaking
NAD 83 North American Datum 1983

II. Background Information and Regulatory History

This rule establishes three safety zones for fireworks displays. Each event and its corresponding regulatory history are discussed below.

City of West Haven Fireworks is a recurring marine event with regulatory history and is cited in 33 CFR 165.151(7.13). This event has been included in this rule due to deviation from the cite date.

Village of Asharoken Fireworks is a recurring marine event with regulatory history and is cited in 33 CFR 165.151(7.24). This event has been included in this rule due to deviation from the cite position.

Riverfest Fireworks is a recurring marine event with regulatory history and is cited in 33 CFR 165.151(7.23). This event has been included in this rule due to deviation from the cite date.

The Coast Guard is issuing this temporary final 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

NPRM with respect to this rule because doing so would be impracticable and contrary to the public interest. The event sponsors were late in submitting marine event applications. These late submissions did not give the Coast Guard enough time to publish an NPRM, take public comments, and issue a final rule before these events take place. It is impracticable to publish an NPRM because we must establish these safety zones by July 3, 2017. Thus, waiting for a comment period to run is

also contrary to the public interest as it would inhibit the Coast Guard's mission to keep the ports and waterways safe.

Under 5 U.S.C. 553(d)(3), and for the same reasons stated in the preceding paragraph, 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 temporary rule under authority in 33

U.S.C. 1231. The COTP LIS has determined that the safety zones established by this temporary final rule are necessary to provide for the safety of life on navigable waterways before, during and after these scheduled events.

IV. Discussion of the Rule

This rule establishes three safety zones for three fireworks displays. The location of these safety zones are as follows:

Fireworks Displays Safety Zones

1. City of West Haven Fireworks	Location: Waters of New Haven Harbor, off Bradley Point, West Haven, CT in approximate position 41°15'07" N., 072°57'26" W. (NAD 83).
2. Village of Asharoken Fireworks	Location: Waters of Northport Bay, Asharoken, NY in approximate position, 40°55'54.04" N., 073°21'27.97" W. (NAD 83).
3. Riverfest Fireworks	Location: Waters of the Connecticut River, Hartford, CT in approximate positions, 41°45'39.93" N., 072°39'49.14" W. (NAD 83).

This rule prevents vessels from entering, transiting, mooring, or anchoring within the areas specifically designated as a safety zone and restricts vessel movement around the locations of the marine events to reduce the safety risks associated with it during the period of enforcement unless authorized by the COTP or designated representative.

The Coast Guard will notify the public and local mariners of these safety zones through appropriate means, which may include, but are not limited to, publication in the **Federal Register**, the Local Notice to Mariners, and Broadcast Notice to Mariners.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

The Coast Guard determined that this rule is not a significant regulatory action for the following reasons: (1) The enforcement of these safety zones will be relatively short in duration; (2) persons or vessels desiring to enter these safety zones may do so with permission from the COTP LIS or a designated representative; (3) these safety zones are designed in a way to limit impacts on vessel traffic, permitting vessels to navigate in other portions of the waterway not designated as a safety zone; and (4) the Coast Guard will notify the public of the enforcement of this rule via appropriate means, such as via Local Notice to Mariners and Broadcast Notice to Mariners to increase public awareness of this safety zone.

B. Impact on Small Entities

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

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 Orders 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 M16475.1D, 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 temporary rule involves the establishment of three temporary safety zones. It is

categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.1D. A Record of Environmental Consideration for Categorically Excluded Actions will be 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 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 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping 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; and Department of Homeland Security Delegation No. 0170.1.

§ 165.151 [Amended]

- 2. From July 6, 2017 through July 8, 2017, remove items 7.13, 7.23, and 7.24 from Table 1 to § 165.151.

- 3. Add § 165.T01–0440 to read as follows:

§ 165.T01–0440 Safety Zones; Marine Events held in the Captain of the Port Long Island Sound Zone.

(a) *Location.* This section will be enforced at the locations listed for each event in Table 1 to § 165.T01–0440.

(b) *Enforcement periods.* This section will be enforced on the dates and times listed for each event in Table 1 to § 165.T01–0440.

(c) *Definitions.* The following definitions apply to this section: A “designated representative” is any Coast Guard commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the COTP, Sector Long Island Sound, to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. “Official patrol vessels” may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP Sector Long Island Sound. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(d) *Regulations.* (1) The general regulations contained in § 165.23 apply.

(2) In accordance with the general regulations in § 165.23, entry into or movement within these zones are prohibited unless authorized by the COTP, Long Island Sound.

(3) Any vessel given permission to deviate from these regulations must comply with all directions given to them by the COTP Sector Long Island Sound, or the designated on-scene representative.

(4) Any vessel given permission to enter or operate in these safety zones must comply with all directions given to them by the COTP Sector Long Island Sound, or the designated on-scene representative.

(5) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed.

(6) The regulated area for all fireworks displays listed in Table 1 to § 165.T01–0440 is that area of navigable waters within a 1000 foot radius of the launch platform or launch site for each fireworks display.

TABLE 1 TO § 165.T01–0440

Fireworks Events

1. City of West Haven Fireworks	<ul style="list-style-type: none"> • Date: July 3, 2017. • Rain Date: July 5, 2017. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters of New Haven Harbor, off Bradley Point, West Haven, CT in approximate position 41°15'07" N., 072°57'26" W. (NAD 83).
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TABLE 1 TO § 165.T01-0440—Continued

2. Village of Asharoken Fireworks	<ul style="list-style-type: none"> • Date: July 4, 2017. • Rain Date: July 5, 2017. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters of Northport Bay, Asharoken, NY in approximate position, 40°55'54.04" N., 073°21'27.97" W. (NAD 83).
3. Riverfest Fireworks	<ul style="list-style-type: none"> • Date: July 8, 2017. • Rain Date: July 9, 2017. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters of the Connecticut River, Hartford, CT in approximate positions, 41°45'39.93" N., 072°39'49.14" W. (NAD 83).

Dated: June 15, 2017.
A.E. Tucci,
Captain, U.S. Coast Guard, Captain of the Port Sector Long Island Sound.
 [FR Doc. 2017-14189 Filed 7-5-17; 8:45 am]
BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2017-0243]

RIN 165-AA00

Safety Zones; Marine Events Held in the Captain of the Port Long Island Sound Zone

AGENCY: Coast Guard, DHS.
ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing seven temporary safety zones for fireworks displays within the Captain of the Port (COTP) Long Island Sound (LIS) Zone. This temporary final rule is necessary to provide for the safety of life on navigable waters during these events. Entry into, transit through, mooring or anchoring within these regulated areas is prohibited unless authorized by COTP LIS.

DATES: This rule is effective without actual notice from July 6, 2017 through July 7, 2017. For the purposes of enforcement, actual notice will be used from, June 22, 2017, through July 6, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2017-0243 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, contact Petty Officer Amber Arnold, Prevention Department, Coast Guard Sector Long

Island Sound, telephone (203) 468-4583, email Amber.D.Arnold@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

COTP Captain of the Port
 DHS Department of Homeland Security
 FR Federal Register
 LIS Long Island Sound
 NPRM Notice of Proposed Rulemaking
 NAD 83 North American Datum 1983

II. Background Information and Regulatory History

This rulemaking establishes seven safety zones for fireworks displays. Each event and its corresponding regulatory history are discussed below.

Crescent Beach Club Fireworks is a first time marine event with no regulatory history.

The City of Stamford Fireworks is a recurring marine event with regulatory history and is cited in 33 CFR 165.151(7.12). This event has been included in this rule due to deviation from the cite date.

The City of Norwich July Fireworks, now called the American Ambulance Services Fireworks, is a recurring marine event with regulatory history and is cited in 33 CFR 165.151(7.11). This event has been included in this rule due to deviation from the cite date.

The City of Middletown Fireworks is a recurring marine event with regulatory history and is cited in 33 CFR 165.151(7.9). This event has been included in this rule due to deviation from the cite date and position.

Greenwich Parks and Recreation Fireworks is a first time marine event with no regulatory history.

The Mason's Island Yacht Club Fireworks is a recurring marine event with regulatory history and is cited in 33 CFR 165.151(7.21). This event has been included in this rule due to deviation from the cite date.

The Madison Fireworks is a recurring marine event with regulatory history and is cited in 33 CFR 165.151(7.38). This event has been included in this rule due to deviation from the cite date.

The Coast Guard is issuing this temporary final 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 an NPRM with respect to this rule because doing so would be impracticable and contrary to the public interest. The event sponsors were late in submitting marine event applications. These late submissions did not give the Coast Guard enough time to publish an NPRM, take public comments, and issue a final rule before these events take place. It is impracticable to publish an NPRM because we must establish these safety zones by June 22, 2017. Further, waiting for a comment period to run is also contrary to the public interest as it would inhibit the Coast Guard's mission to keep the ports and waterways safe.

Under 5 U.S.C. 553(d)(3), and for the same reasons stated in the preceding paragraph, 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 temporary rule under authority in 33 U.S.C. 1231. The COTP Long Island Sound has determined that the safety zones established by this temporary final rule are necessary to provide for the safety of life on navigable waterways before, during, and after these scheduled events.

IV. Discussion of the Rule

This rule establishes seven safety zones for seven fireworks displays. The location of these safety zones are as follows:

Fireworks Events

1. Crescent Beach Club Fireworks	Location: All navigable waters of Long Island Sound, Bayville, NY within 800 feet of the fireworks barge in approximate position 40°54'43" N., 073°32'43" W. (NAD 83).
2. City of Stamford Fireworks	Location: All navigable waters of Westcott Cove, Stamford, CT within 1000 feet of the fireworks barge located in approximate position 41°02'09.56" N., 073°30'57.76" W. (NAD 83).
3. American Ambulance Services Fireworks	Location: All navigable waters of the Thames River, Norwich, CT, within 1000 feet of the fireworks barge in approximate position 41°31'15.93" N., 072°04'42.96" W. (NAD 83).
4. City of Middletown Fireworks	Location: All waters of Connecticut River, Middletown, CT within 1000 feet of the fireworks barge in approximate position 41°33'43" N., 072°38'32" W. (NAD 83).
5. Town of Greenwich Parks and Recreation Fireworks	Location: All waters of Greenwich Harbor, Greenwich, CT within 560 feet of the land launch site in approximate position 41°00'8.64" N., 073°34'16.26" W. (NAD 83).
6. Mason's Island Yacht Club Fireworks	Location: All waters of the Long Island Sound, Mason's Island, CT within 1000 feet of the fireworks barge in approximate position 41°19'30.61" N., 071°57'48.22" W. (NAD 83).
7. Madison Fireworks	Location: All navigable waters of the Long Island Sound, Madison, CT within 1000 feet of the of the barge launch site located in approximate position 41°16'03.93" N., 072°36'15.97" W. (NAD 83).

This rule prevents vessels from entering, transiting, mooring, or anchoring within the areas specifically designated as a safety zone and restricts vessel movement around the locations of the marine events to reduce the safety risks associated with it during the period of enforcement unless authorized by the COTP or designated representative.

The Coast Guard will notify the public and local mariners of these safety zones through appropriate means, which may include, but are not limited to the Local Notice to Mariners and Broadcast Notice to Mariners.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

The Coast Guard determined that this rulemaking is not a significant

regulatory action for the following reasons: (1) The enforcement of these safety zones will be relatively short in duration; (2) persons or vessels desiring to enter these safety zones may do so with permission from the COTP Long Island Sound or a designated representative; (3) these safety zones are designed in a way to limit impacts on vessel traffic, permitting vessels to navigate in other portions of the waterway not designated as a safety zone; and (4) the Coast Guard will notify the public of the enforcement of this rule via appropriate means, such as Local Notice to Mariners and Broadcast Notice to Mariners to increase public awareness of this safety zone.

B. Impact on Small Entities

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

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 Orders 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 M16475.1D, 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 temporary rule involves the establishment of seven temporary safety zones. It is categorically excluded from further review under paragraph 34(g) of Figure

2–1 of the Commandant Instruction. A Record of Environmental Consideration (REC) for Categorically Excluded Actions will be 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 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 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping 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; and Department of Homeland Security Delegation No. 0170.1.

§ 165.151 [Amended]

■ 2. From July 6, 2017 through July 7, 2017, remove items 7.9, 7.11, 7.12, 7.21, 7.38 from Table 1 to § 165.151.

■ 3. Add § 100.T01–0243 to read as follows:

§ 165.T01–0243 Safety Zones; Marine Events held in the Captain of the Port Long Island Sound Zone

(a) Location. This section will be enforced at the locations listed for each event in Table 1 to § 165.T01–0243.

(b) Enforcement periods. This section will be enforced on the dates and times listed for each event in Table 1 to § 165.T01–0243.

(c) Definitions. The following definitions apply to this section: A “designated representative” is any Coast Guard commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the COTP Long Island Sound to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. “Official patrol vessels” may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP Long Island Sound. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(d) Regulations. (1) The general regulations contained in 33 CFR 165.23 apply.

(2) In accordance with the general regulations in 33 CFR 165.23, entry into or movement within these zones are prohibited unless authorized by the COTP Long Island Sound.

(3) Any vessel given permission to deviate from these regulations must comply with all directions given to them by the COTP Long Island Sound, or the designated on-scene representative.

(4) Any vessel given permission to enter or operate in these safety zones must comply with all directions given to them by the COTP Long Island Sound, or the designated on-scene representative.

(5) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed.

TABLE 1 TO § 165.T01–0534

Fireworks Events

1. Crescent Beach Club Fireworks	<ul style="list-style-type: none"> • Date: June 22, 2017. • Time: 9:00 p.m. to 10:15 p.m. • Location: All navigable waters of Long Island Sound, Bayville, NY within 800 feet of the fireworks barge in approximate position 40°54'43" N., 073°32'43" W. (NAD 83).
2. City of Stamford Fireworks	<ul style="list-style-type: none"> • Date: June 30, 2017. • Rain Date: July 1, 2017. • Time: 8:00 p.m. to 10:00 p.m. • Location: All navigable waters of Westcott Cove, Stamford, CT within 1000 feet of the fireworks barge located in approximate position 41°02'09.56" N., 073°30'57.76" W. (NAD 83).
3. American Ambulance Services Fireworks	<ul style="list-style-type: none"> • Date: June 30, 2017.

TABLE 1 TO § 165.T01–0534—Continued

4. City of Middletown Fireworks	<ul style="list-style-type: none"> • Rain Date: July 1, 2017. • Time: 9:00 p.m. to 10:30 p.m. • Location: All navigable waters of the Thames River, Norwich, CT, within 1000 feet of the fireworks barge in approximate position 41°31'15.93" N., 072°04'42.96" W. (NAD 83). • Date: July 1, 2017.
5. Town of Greenwich Parks and Recreation Fireworks	<ul style="list-style-type: none"> • Rain Date: July 2, 2017. • Time: 8:30 p.m. to 10:30 p.m. • Location: All waters of Connecticut River, Middletown, CT within 1000 feet of the fireworks barge in approximate position 41°33'43" N., 072°38'32" W. (NAD 83). • Date: July 1, 2017.
6. Mason's Island Yacht Club Fireworks	<ul style="list-style-type: none"> • Rain Date: July 2, 2017. • Time: 8:45 p.m. to 10:00 p.m. • Location: All waters of Greenwich Harbor, Greenwich, CT within 560 feet of the land launch site in approximate position 41°00'8.64" N., 073°34'16.26" W. (NAD 83). • Date: July 2, 2017.
7. Madison Fireworks	<ul style="list-style-type: none"> • Time: 8:30 p.m. to 10:30 p.m. • Location: All waters of the Long Island Sound, Mason's Island, CT within 1000 feet of the fireworks barge in approximate position 41°19'30.61" N., 071°57'48.22" W. (NAD 83). • Date: July 2, 2017. • Rain Date: July 7, 2017. • Time: 8:30 p.m. to 10:30 p.m. • Location: All navigable waters of the Long Island Sound, Madison, CT within 1000 feet of the of the barge launch site located in approximate position 41°16'03.93" N., 072°36'15.97" W. (NAD 83).

Dated: June 15, 2017.

A.E. Tucci,

Captain, U.S. Coast Guard, Captain of the Port Sector Long Island Sound.

[FR Doc. 2017–14188 Filed 7–5–17; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1986–0005; FRL 9964–03–Region 1]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Shpack Landfill Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) Region 1 is publishing a direct final Notice of Deletion of the Shpack Landfill Superfund Site (Site), located on Union Rd. and Peckham Streets in Norton and Attleboro, Massachusetts, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct

final deletion is being published by EPA with the concurrence of the State of Massachusetts, through the Massachusetts Department of Environmental Protection (MassDEP), because EPA has determined that all appropriate response actions under CERCLA, other than operation, maintenance, monitoring, and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: This direct final deletion is effective September 5, 2017 unless EPA receives adverse comments by August 7, 2017. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–1986–0005 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Comments may also be submitted by email or mail to Elaine Stanley, Remedial Project Manager, Office of Site Remediation and Restoration, Mail Code: OSRR07–4, U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Suite 100, Boston, MA 02109–3912, email address: Stanley.ElaineT@epa.gov or Sarah White, Community Involvement Coordinator, Office of the Regional Administrator, Mail Code: ORA01–1,

US Environmental Protection Agency at EPA—Region 1, 5 Post Office Square, Suite 100, Boston, MA 02109–3912, telephone: 617–918–1026, email: White.Sarah@epa.gov. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the site information repositories.

Locations, contacts, phone numbers and viewing hours are:

- U.S. EPA Region I, Superfund Records Center, 5 Post Office Square, Suite 100, Boston, MA 02109, Phone:

617-918-1440, Monday-Friday: 9:00 a.m.–5:00 p.m., Saturday and Sunday—Closed and

• The Norton Public Library, 68 East Main Street, Norton, MA 02766, Phone: 508-285-0265, Monday, Tuesday, and Thursday: 10:00 a.m.–7: pm, Wednesday: 10am–3 p.m., Friday: 10am–2 p.m., Saturday: Closed until 9/10 Sunday—Closed

FOR FURTHER INFORMATION CONTACT:

Elaine Stanley, Remedial Project Manager, Office of Site Remediation and Restoration, Mail Code: OSRR07-4, U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Suite 100, Boston, MA 02109-3912, telephone number: 617-918-1332, fax number: 617-918-0332, email address: Stanley.ElaineT@epa.gov or Sarah White, Community Involvement Coordinator, Office of the Regional Administrator, Mail Code: ORA01-1, US Environmental Protection Agency at EPA—Region 1, 5 Post Office Square, Suite 100, Mail Code ORA01-1, Boston, MA 02109-3912, telephone: 617-918-1026, fax number: 617-918-0026, email: White.Sarah@epa.gov.

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I. Introduction

EPA Region 1 is publishing this direct final Notice of Deletion of the Shpack Landfill Site, from the National Priorities List (NPL). The NPL constitutes Appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in 300.425(e) (3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Shpack Landfill Superfund Site and demonstrates how it meets the deletion criteria. Section V

discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the state, whether any of the following criteria have been met:

- i. Responsible parties or other persons have implemented all appropriate response actions required;
- ii. all appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or
- iii. the remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA section 121 (c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) EPA consulted with the state of Massachusetts prior to developing this direct final Notice of Deletion and the Notice of Intent to Delete co-published today in the "Proposed Rules" section of the **Federal Register**.

(2) EPA has provided the state 30 working days for an opportunity to review of this notice and the parallel Notice of Intent to Delete prior to their publication today, and the state, through the Massachusetts Department of Environmental Protection (MassDEP), has concurred on the deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final Notice of Deletion, a

notice of the availability of the parallel Notice of Intent to Delete is being published in a major local newspaper, The Sun Chronicle, Attleboro, MA. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the Site from the NPL.

(4) The EPA placed copies of documents supporting the proposed deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of Deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

Site Background and History

The Shpack Landfill Superfund Site, CERCLIS ID No. MAD980503973, is bordered to the north and northwest by Peckham Street (Attleboro) and Union Road (Norton); to the west and southwest by an approximately 55-acre municipal and industrial landfill owned by Attleboro Landfill Inc. (ALI); and on the southeast, east, and northeast by the Chartley Swamp. The Site covers approximately 9.4 acres and was operated as a landfill from 1946 until the early 1970s, receiving domestic and industrial waste, including low-level radioactive waste. In 1978, the Nuclear Regulatory Commission (NRC) conducted radiological surveys at the Site, detecting radium and uranium within the landfill after being contacted by a concerned citizen who had detected elevated radiation levels in the area. In 1980, the Site was added to the Department of Energy's (DOE) Formerly

Utilized Sites Remedial Action Program (FUSRAP), which dealt with the legacy of the nation's early atomic energy programs. Responsibility was later transferred from DOE to the United States Army Corps of Engineers (USACE). Municipal water supplies did not extend to the area around the Site and there were 27 private wells located within 1-mile of the Site. In 1984, EPA evaluated the Site to determine if it should be listed on the National Priorities List (NPL) and found volatile organic compounds (VOCs) and metals in groundwater. The site was proposed to the NPL on October 15, 1984 (49 FR 40320). On June 14, 1986 (51 FR 21054), the Site was added to the NPL.

Remedial Investigation and Feasibility Study (RI/FS)

The RI/FS was completed in 2003. As part of the investigation, soil, surface water, groundwater, sediments and air were evaluated. Among the primary contaminants identified at the Site were radium and uranium; volatile organic compounds (VOCs); heavy metals such as nickel, cadmium, copper, lead and mercury; dioxin, polychlorinated biphenyls (PCBs) and per/cyclic aromatic hydrocarbons (PAHs). The RI found that the primary risks at the Site were to residents exposed to contaminants by using the groundwater as drinking water; recreational visitors exposed to contaminated soil or sediment; workers on the Site; and to wildlife from contaminated sediments in the wetland. The FS evaluated alternatives with various degrees of excavation and off-site disposal of contaminants, consolidation of remaining contaminated soil and sediments under a multi-barrier cap and providing water line to nearby residents.

Selected Remedy

To address the risks presented by exposure to contaminants, EPA issued a Record of Decision (ROD) for the cleanup of the Site in September 2004. The ROD encompasses two response actions: One managed by the USACE under FUSRAP and the other managed by EPA under CERCLA.

The ROD identified the following remedial action objectives (RAOs):

Source Control: Soil—prevent ingestion, direct contact and inhalation with soil which contains contaminants in concentrations that exceed Federal and State standards; prevent ingestion, direct contact and inhalation with soil which have no enforceable Federal or State standards but which pose an unacceptable human health risk, and prevent exposure to contaminants in soil which present an unacceptable risk

to the environment. Sediment—prevent exposure to contaminants in sediment which present an unacceptable risk to human health and/or environment. Surface water—reduce migration of contamination from site to surface water which present an unacceptable risk to human health and the environment.

Management of Migration: Prevent ingestion of water which contains contaminants in concentrations that exceed Maximum Contaminants Levels (MCLs), non-zero Maximum Contaminants Level Goals (MCLGs) and/or pose an unacceptable human health risk and/or unacceptable risk to the environment.

In response to the RAOs, the remedy included the following major components: Extension of the public water supply line; excavation and off-site disposal of soil and sediment with contaminant concentrations exceeding the cleanup levels specified in the ROD; placement of clean fill in excavated areas to grade and/or wetlands restoration/replication; relocation of existing power line structures, as needed, and traffic control plan to implement necessary soil removal and backfill actions; implementation of a surface water, sediment, and groundwater monitoring program; implementation of institutional controls necessary to restrict future use of property and groundwater, and monitoring compliance with institutional controls.

This remedy was based on the commitment by MassDEP to no longer consider this portion of the aquifer as a current or future water supply under the Massachusetts Contingency Plan once the remedial action is implemented, the two private drinking water supply wells abandoned, and Notices of Activity and Use Limitation (NAULs) were placed on the properties prohibiting the future use of groundwater. Since those conditions have been met, MassDEP revised its Groundwater Use and Value Determination to a low use and value, and EPA considers the groundwater not suitable as a drinking water source.

Response Actions

FUSRAP Remedial Action

The FUSRAP Remedial Action was performed by USACE and required excavation and disposal of contaminated materials within the Landfill Interior portion of the Site. The action began in August 2005 and after excavation began, it was determined that the horizontal and vertical extent of radiological contamination was more extensive than estimated in the ROD. The FUSRAP activities originally

initiated in 2005 resumed in June 2007 and were completed in October 2011. To manage groundwater, all pumped water was infiltrated on-site after treatment utilizing settling tanks, sand filtration vessels and bag filters.

A total of 57,805 cubic yards of material was excavated, of which 50,908 cubic yards were transported off-site for disposal. All wastes shipped off-site were ultimately transported by rail to the Energy Solutions disposal facility in Clive, Utah, a facility licensed for disposal of LLRW and/or mixed wastes. The USACE completed the *Remedial Action Completion Report—Radiological Contamination* in May 2012 documenting all completed FUSRAP-related remedial action activities at the site.

CERCLA Remedial Action

The CERCLA Remedial Action was performed by the Performing Defendants under a Remedial Design/Remedial Action Consent Decree entered on January 27, 2009 in the U.S. District Court in Boston for the remainder of the site cleanup. The public water supply line extension was complete in October 2012, extending The City of Attleboro public water supply line approximately 2,600 feet along Peckham Street, to within 500 feet of the Site, prior to on-site remedial construction activities. The on-site CERCLA Remedial Action began in June 2013. CERCLA wastes requiring excavation and disposal were located within the Tongue Area, Inner Rung, and ALI Debris Area (ALIDA) portions of the Site. Management of extracted groundwater utilized a treatment system for removal of entrained solids prior to on-site infiltration into site soils. Initial wetland and upland plantings and seeding were completed in November and December 2013. CERCLA remedial construction was completed in December 2013. A total of 27,083 tons of waste material was transported off-site for disposal. The material included the following waste classifications: Special Nuclear Material (SNM) non-hazardous; hazardous waste (leachable cadmium); non-hazardous waste; asbestos in soil (AIS); and non-hazardous asbestos-containing building materials. Overall, approximately 79 percent of the wastes removed from the Site were transported by rail to the US Ecology disposal facility in Grand View, Idaho. Most of the remaining wastes (approximately 20 percent of the total) were classified as non-hazardous and were transported by truck to the Waste Management Turnkey Landfill in Rochester, New Hampshire. The remaining wastes contained asbestos

and were shipped to a construction debris landfill licensed to accept asbestos.

Cleanup Levels

FUSRAP Remedial Action

In accordance with the requirements of the *Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM), Revision 1* (August 2000), all excavated areas within the landfill interior required independent verification to ensure that site-specific cleanup criteria for radiological contaminants were met. The *Final FSS Report, Shpack FUSRAP Superfund Landfill Site, Norton/Attleboro, Massachusetts* (which included the Final Status Survey (FSS)) was issued in May 2012. The FSS included collection of confirmation samples from excavation floors and sidewalls prior to backfill of each excavation area. Excavations were backfilled only after FSS sampling and on-site lab analytical results confirmed that radiological contaminants were below cleanup criteria. Further information can be found in the FSS Report listed above.

CERCLA Remedial Action

The Inner Rung was a portion of Chartley Swamp that was slated for remedial activities due to ecological risk. To address potential risk to benthic organisms in the wetland ecosystem, the excavation removed the top 2 feet of material throughout the area. The restoration of the area included placement of a 1-foot thick layer of clean fill followed by placement of a 1-foot-thick layer of wetland topsoil to meet the pre-existing grades. Approximately 5,680 tons of waste material generated from the Inner Rung activities were removed and disposed of off Site. The Chemical-Only Soil Stockpile consisted of materials excavated by the USACE as part of the FUSRAP response actions. Based on information provided by the USACE, impacts to this material exceeded the ROD chemical cleanup criteria, but did not exceed ROD radiological criteria. The USACE secured the stockpile to protect it from the elements following its demobilization from the Site. Approximately 3,580 tons of waste material from the Chemical-Only Soil Stockpile were removed and disposed of off-Site. The ALI Debris Area (ALIDA) was a portion of the Shpack Landfill Interior that was the location of a reported slope failure from the ALI Landfill. The material in this area consisted of ALI municipal landfill debris underlain by industrial landfill debris associated with the Shpack

Landfill. The USACE excavated 17 test pits in the ALI Landfill Debris Area during the FUSRAP activities in 2005. The USACE's test pit data indicated that that material exceeded several of the ROD cleanup goals for chemical compounds, but not the radioactive ones. Approximately 7,970 tons of waste material from the ALIDA were removed down to native peat material and disposed of off-Site. Waste and debris from a fire at an industrial plastics manufacturing facility were reportedly disposed of in the Tongue Area which extended from the Shpack Landfill Interior toward the Inner Rung. Approximately 9,680 tons of waste material were removed from the Tongue Area down to native peat material and disposed of off-Site. The Remedial Action required disturbance of approximately 203,500 square feet of wetlands to remove waste materials and to restore the wetlands impacted by the FUSRAP response actions. The final square footage of wetlands restored and created on-site during the RA is approximately 231,313 square feet.

Operation and Maintenance

Initial wetland and upland plantings and seeding under CERCLA Remedial Action were completed in November and December 2013. Routine monitoring and maintenance of the wetland area is scheduled to continue for seven years following completion of construction to ensure the success of the restored wetland. Inspections, maintenance, and any required plant replacement and re-seeding will occur during the first year. The Final Operation and Maintenance Plan includes monitoring criteria with specific wetland restoration and creation performance goals keyed to a designated schedule. Operation and Maintenance of the Remedy will be conducted by the City of Attleboro in accordance with the approved O&M Plan for the Site. The Performing Defendants have agreed that the City of Attleboro will perform the O&M activities, including: Compliance monitoring; enforcing the ICs as necessary, and prepare and submit annual reports to EPA and MassDEP regarding the status of the ICs, as outlined in the *Operations and Maintenance Plan, Revision #1, dated July 2015*.

Prior to completion of the Remedial Action, an interim set of Institutional Controls (ICs) in the form of Easements, Restrictions, and Non-interference Agreements (ERNA) were placed on four properties. Following completion of the Remedial Action, a Notice of Activity and Use Limitation (NAUL) was recorded in November 2016 for each of

the properties, except Union Road House 1 which was razed and the residential well decommissioned in 2012 thus no longer requiring NAUL. The NAUL prohibits activities and uses of the Site that may present an unacceptable risk to human health as well as providing Site access to the Performing Defendants for associated monitoring and O&M activities.

Five-Year Review

Hazardous substances remain at this Site above levels which would allow for unlimited use and unrestricted exposure requiring EPA to conduct statutory five-year reviews. The first statutory Five-Year Review Report will be completed prior to June 12, 2018, which is five years from the initiation of construction of the CERCLA remedy.

Community Involvement

Throughout the Site's history, EPA has kept the community and other interested parties apprised of Site activities through informational meetings, fact sheets, press releases, and public meetings. Local residents formed the Citizen's Advisory Shpack Team (CAST) to monitor Site activities. On numerous occasions during 2000–2004, EPA and MADEP held informational meetings to update the community on the results of the RI/FS, including a November 20, 2003, meeting to discuss the results of the RI. On June 23, 2004, EPA held an informational meeting to present the Agency's Proposed Plan. From June 24, 2004 to August 25, 2004, the Agency held a public comment period to accept public comment on the alternatives presented in the FS and the Proposed Plan and the September 28, 2004 ROD includes the Responsiveness Summary to comments received during the public comment period.

Determination That the Site Meets the Criteria for Deletion in the NCP

The remedial actions which have been implemented for the FUSRAP and CERCLA achieve the clean-up objectives and cleanup goals identified in the 2004 ROD for the Site. The remaining site related contaminants are present at levels protective of both human health and the environment and meet EPA's acceptable risk for all exposure pathways. All of the selected remedial actions and the remedial action objectives and associated cleanup goals are consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the National Contingency Plan (NCP) and EPA policy and guidance.

All Institutional Controls are in place and currently EPA expects that no further Superfund response is needed to protect human health and the environment, except future operations and maintenance, monitoring, and Five Year Reviews.

V. Deletion Action

The EPA, with concurrence of the State of Massachusetts through the MassDEP, has determined that all appropriate response actions under CERCLA, other than operation, maintenance, monitoring and five-year reviews have been completed. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective September 5, 2017 unless EPA receives adverse comments by August 7, 2017. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion, and it will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: May 31, 2017.

Deborah A. Szaro,

Acting Regional Administrator Region 1.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

■ 1. The authority citation for part 300 is revised to read as follows:

Authority: 33 U.S.C. 1321(d); 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B to Part 300—[Amended]

■ 2. Table 1 of Appendix B to part 300 is amended by removing “MA”, “Shpack Landfill”, “Norton/Attleboro”.

[FR Doc. 2017–14112 Filed 7–5–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 770

[EPA–HQ–OPPT–2017–0244; FRL–9963–74]

RIN 2070–AK35

Compliance Date Extension; Formaldehyde Emission Standards for Composite Wood Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; withdrawal.

SUMMARY: In the **Federal Register** of May 24, 2017, EPA published both a direct final rule and proposed rule to extend the compliance dates and California Air Resource Board (CARB) Third Party Certifier (TPC) transitional period originally published in the Toxics Substances Control Act (TSCA) Title VI formaldehyde emission standards for composite wood products final rule on December 12, 2016. As noted in the direct final rule, if EPA received relevant adverse comment on the proposed amendments, the Agency would publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the direct final action will not take effect. The Agency did receive adverse comment on the proposed rule amendments, and is therefore withdrawing the direct final rule and will instead proceed with a final rule based on the proposed rule after considering all public comments.

DATES: Effective July 6, 2017 the direct final rule published in the **Federal Register** of May 24, 2017 (82 FR 23735) (FRL–9962–86) is withdrawn.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Erik Winchester, National Program Chemicals Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: 202–564–6450; email address: winchester.erik@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. Does this action apply to me?

A list of potentially affected entities is provided in the **Federal Register** of May 24, 2017 (82 FR 23735). If you have questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. What rule is being withdrawn?

In the May 24, 2017 **Federal Register**, EPA published both a direct final rule (*see* 82 FR 23735) and proposed rule (*see* 82 FR 23769) pursuant to section 601 of TSCA that would have extended the December 12, 2016 published (*see* 81 FR 89674) compliance dates for emission standards, recordkeeping, and labeling provisions, until March 22, 2018; extended the December 12, 2018 compliance date for import certification provisions until March 22, 2019; and extended the December 12, 2023 compliance date for provisions applicable to producers of laminated products until March 22, 2024. Additionally, this action would have extended the CARB TPC transitional period which is currently set to end December 12, 2018, until March 22, 2019.

Since the direct final rule and proposed rule’s publication, EPA has received several comments on the proposed amendments to the compliance dates that the Agency considers to be adverse. As a result of receiving adverse comments, EPA is withdrawing the direct final rule published in the **Federal Register** on May 24, 2017. These comments are available for review in the public docket and suggest alternatives to the proposed action which EPA will address in a subsequent final rule.

III. How do I access the docket?

To access the docket, please go to <http://www.regulations.gov> and follow the online instructions using the docket ID number EPA–HQ–OPPT–2017–0244. Additional information about the Docket Facility is also provided under **ADDRESSES** in the May 24, 2017 (82 FR 23735) **Federal Register** document. If you have questions, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

IV. Good Cause Finding

EPA finds that there is “good cause” under the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) to withdraw the direct final rule discussed in this document without prior notice and comment. For this document, notice and comment is impracticable and

unnecessary because EPA is under a time limit to publish this withdrawal. It was determined that this document is not subject to the 30-day delay of effective date generally required by 5 U.S.C. 553(d). This withdrawal must become effective prior to the effective date of the direct final rule being withdrawn.

V. Statutory and Executive Order Reviews

This document withdraws regulatory requirements that have not gone into effect. As such, the Agency has determined that this withdrawal will not have any adverse impacts, economic or otherwise. The statutory and Executive Order review requirements applicable to the direct final rule being withdrawn were discussed in the May 24, 2017 (82 FR 23735) **Federal Register** document. Those review requirements do not apply to this action because it is a withdrawal and does not contain any new or amended requirements.

VI. Congressional Review Act (CRA)

Pursuant to the CRA (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). Section 808 of the CRA allows the issuing agency to make a rule effective sooner than otherwise provided by CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. As required by 5 U.S.C. 808(2), this determination is supported by a brief statement in Unit IV.

List of Subjects in 40 CFR Part 770

Environmental protection, Formaldehyde, Incorporation by reference, Reporting and recordkeeping requirements, Third-party certification, Toxic substances, Wood.

Dated: June 28, 2017.

Louise P. Wise,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2017-14106 Filed 7-5-17; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8360

[17XL 1109AF LLUTY0100
L12200000.EA0000 24-1A]

Notice of Final Supplementary Rule for Public Lands in the Moab Field Office in Grand County, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notification of final supplementary rule.

SUMMARY: The Bureau of Land Management (BLM) is finalizing a supplementary rule addressing recreation on public lands in the vicinity of Corona Arch and Gemini Bridges in Grand County, Utah. The supplementary rule prohibits roped activities around Corona Arch and Gemini Bridges. Such activities involve the use of ropes or other climbing aids, and include, but are not limited to, zip-lining, high-lining, slacklining, traditional rock climbing, sport rock climbing, rappelling, and swinging.

DATES: The supplementary rule is in effect August 7, 2017.

ADDRESSES: You may direct inquiries by letter to Christina Price, Field Office Manager, Bureau of Land Management, Moab Field Office, 82 East Dogwood Avenue, Moab, UT 84532, or by email to blm_ut_mb_mail@blm.gov. The final supplementary rule is available for inspection at the Moab Field Office and on the Web site: <https://www.blm.gov/media/federal-register>.

FOR FURTHER INFORMATION CONTACT: Christina Price, Field Manager, 82 East Dogwood Avenue, Moab, UT 84532, 435-259-2100, or blm_ut_mb_mail@blm.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to leave a message or question with the above individual. The service is available 24 hours a day, 7 days a week. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

I. Background

The BLM is establishing a final supplementary rule under the authority of 43 CFR 8365.1-6, which allows State Directors to establish supplementary rules for the protection of persons, property, and the public lands and resources. This provision allows the BLM to issue rules of less than national effect without codifying the rules in the

Code of Federal Regulations. This final supplementary rule applies to 37 acres of public lands managed by the Moab Field Office. Maps of the management area and boundaries can be obtained by contacting the Moab Field Office or by accessing the BLM's ePlanning project page (<http://go.usa.gov/xkHY8>). The final supplementary rule will be available for review at the Moab Field Office.

In 2015, the BLM published a temporary restriction on rope swinging at Corona Arch and Gemini Bridges. In 2016, the BLM sought a permanent restriction on rope swinging at the same two locations. Through the National Environmental Policy Act (NEPA) process, the BLM identified the need to establish a supplementary rule to provide for visitor enjoyment and protect public land resources at these two locations. Corona Arch and Gemini Bridges are two of the most popular recreational destinations in the Moab Field Office. Corona Arch is a partly freestanding arch with a 110-foot by 110-foot opening. Gemini Bridges are two large arches standing side-by-side.

Approximately 40,000 visitors per year come to the Corona Arch, and the Gemini Bridges receives approximately 50,000 visitors per year. The BLM has received many complaints that roped activities, including swinging from the arches, conflict with other visitors' use and enjoyment of the arches. The BLM finds merit in these complaints. People setting up and using swings and rappels from the arches endanger both themselves and those viewing from below. In addition, the rock arches may be damaged by ropes "sawing" on the rock spans. The supplementary rule currently in effect in the Moab Field Office (81 FR 9498, Feb. 25, 2016) does not address roped activities on the affected arches, although the temporary restriction (80 FR 27703, May 14, 2015) is in effect until May 2017.

The legal descriptions of the affected public lands are:

Salt Lake Meridian

T. 25 S., R. 20 E., sec. 34, NW $\frac{1}{4}$ SW $\frac{1}{4}$, that part surrounding Gemini Bridges.

T. 25 S., R. 21 E., sec. 32, SE $\frac{1}{4}$ SE $\frac{1}{4}$, that part surrounding Corona Arch.

T. 26 S., R. 21 E., sec. 5, NE $\frac{1}{4}$, that part surrounding Corona Arch.

The areas described aggregate to 37.3 acres.

This final supplementary rule allows for enforcement as a tool to minimize the adverse effects of roped activities within the affected areas. After the final supplementary rule goes into effect, it will be available for review in the Moab Field Office, and will be announced broadly through the news media and

direct mail to the constituents included on the Moab Field Office mailing list. The rule will also be posted on signs at main entry points to the affected areas.

II. Discussion of Public Comments

The BLM published the proposed supplementary rule on October 31, 2016 (81 FR 75366). Thirty comment letters were received during the 90-day public comment period. Twenty-four of the commenters expressed support for the supplementary rule; six commenters opposed the supplementary rule. No changes to the final rule were made as a result of the comments received.

Support for the final supplementary rule banning roped activities near Corona Arch and Gemini Bridges focused upon allowing hikers to enjoy the arches unfettered by swinging activities. Commenters in favor of the rule noted the temporary restriction had allowed them to once again enjoy these hikes; they favored making the temporary restriction permanent. Commenters in favor also noted the vast majority of users of the arches (approximately 99.8%) visit the arches for their serenity and beauty.

The six commenters expressing opposition to the rule cited a need for less regulation of recreational activities. These commenters noted that hikers could go elsewhere. The BLM has not revised the rule in response to these comments. A permanent prohibition against roped activities is in conformance with the 2008 Moab Resource Management Plan (RMP). See <https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=dispatchToPatternPage¤tPageId=94940>.

The Corona Arch area is within the Goldbar Hiking Focus Area, which is specifically managed to enhance hiking opportunities. Decision REC-39 (page 90) states: "Manage the Corona Arch Trail for hiking only." Gemini Bridges is within the Gemini Bridges/Poison Spider Mesa Focus area. Decision REC-39 states: "close the spur route to Gemini Bridges to facilitate public use and help restore damaged lands along the spur route." The RMP further authorized the creation of a hiking route to Gemini Bridges to facilitate public use. In an effort to eliminate recreational use conflicts on these iconic and high use hiking trails, the BLM has chosen to finalize the supplementary rule.

III. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

This supplementary rule is not a significant regulatory action and is not

subject to review by the Office of Management and Budget under Executive Order 12866. This supplementary rule would not have an annual effect of \$100 million or more on the economy. It is not intended to affect commercial activity, but imposes a rule of conduct on recreational visitors for public safety and resource protection reasons in a limited area of public lands. This supplementary rule would not adversely affect, in a material way, the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This supplementary rule would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. This supplementary rule does not materially alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients, nor does it raise novel legal or policy issues; it merely strives to protect public safety and the environment.

National Environmental Policy Act

A temporary restriction on roped activities was analyzed in Environmental Assessment (EA) DOI-BLM-UT-2014-0170-EA, *Temporary Restriction of Roped Activities at Corona Arch and Gemini Bridges*. This document was subject to a 30-day public comment period, and the Finding of No Significant Impact (FONSI) and Decision Record were signed on January 6, 2015. The permanent restriction on roped activities was analyzed in EA DOI-BLM-UT-2015-0227, *Permanent Restriction of Corona Arch and Gemini Bridges to Roped Activities*. This document was subject to a 30-day scoping period and a 30-day public comment period. The Decision Record providing for the permanent restriction was signed on May 5, 2016. Based on the EA which analyzed the permanent restriction, the BLM found that this supplementary rule would not constitute a major Federal action significantly affecting the quality of the human environment under Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). This supplementary rule merely regulates conduct on the BLM public lands administered by the Moab Field Office within a 31-acre area around Corona Arch and 6.3-acre area around Gemini Bridges. This rule is designed to protect the environment and public safety. A detailed impact statement under NEPA is not required. The BLM has placed the EAs, the Decision Records, and the Findings of

No Significant Impact on file in the BLM Administrative Record at the address specified in the **ADDRESSES** section.

Regulatory Flexibility Act

This final supplementary rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Congress enacted the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. The supplementary rule does not pertain specifically to commercial or governmental entities of any size, but to public recreational use of specific public lands.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Does not have an annual effect on the economy of \$100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises

Unfunded Mandates Reform Act

This supplementary rule does not impose an unfunded mandate on State, local, or tribal governments of more than \$100 million per year; nor does it have a significant or unique effect on State, local, or tribal governments or the private sector. This supplementary rule does not require anything of State, local, or tribal governments. A statement containing the information required by the Unfunded Mandates Reform Act, 2 U.S.C. 1531 *et seq.*, is not required.

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

This rule does not effect a taking of private property or otherwise have taking implications under Executive Order 12630. This supplementary rule is not a government action capable of interfering with constitutionally

protected property rights. This supplementary rule does not address property rights in any form, and does not cause the impairment of anybody's property rights. A takings implication assessment is not required.

Executive Order 13132, Federalism

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This supplementary rule will not have a substantial direct effect on the states, on the relationship between the Federal government and the states, or on the distribution of power and responsibilities among the various levels of government. A federalism summary impact statement is not required.

Executive Order 12988, Civil Justice Reform

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's tribal consultation policy is not required.

Paperwork Reduction Act

This supplementary rule does not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

Final Supplementary Rule

Author

The principal author of this supplementary rule is Christina Price, Field Manager for the Moab Field Office, Utah. For the reasons stated in the preamble, and under the authority for supplementary rules at 43 U.S.C. 1740 and 43 CFR 8365.1-6, the Utah State Director, BLM, establishes a supplementary rule for public lands managed by the BLM in Utah, to read as follows:

Definitions

Roped activities means activities that involve the use of ropes, cables, climbing aids, webbing, or anchors, and includes, but is not limited to, zip-lining, high-lining, slack-lining, traditional rock climbing, sport rock climbing, rappelling, and swinging.

Prohibited Acts

You must not participate in any roped activities on public lands in the vicinity of Corona Arch or Gemini Bridges. This prohibition includes, but is not limited to, the use of ropes, cables, climbing aids, webbing, anchors, and similar devices.

Exemptions

The following persons are exempt from this supplementary rule: Any Federal, State, or local government officer or employee in the scope of their duties; members of any organized law enforcement, rescue, or firefighting force in performance of an official duty; and any persons, agencies, municipalities or companies whose activities are authorized in writing by the BLM.

Penalties

Any person who violates this supplementary rule may be tried before a United States Magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8360.0-7, or both. In accordance with 43 CFR 8365.1-7, State or local officials may also impose penalties for violations of Utah law.

Edwin L. Roberson,

State Director.

[FR Doc. 2017-13891 Filed 7-5-17; 8:45 am]

BILLING CODE 4310-DQ-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PS Docket No. 15-199; FCC 16-113]

Amendment of the Commission's Rules To Enable Railroad Police Officers To Access Public Safety Interoperability and Mutual Aid Channels

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection associated with the Commission's Report and Order (*Order*)'s rules enabling railroad police access to public safety interoperability channels. This document is consistent with the *Order*, which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of those rules.

DATES: The amendments to 47 CFR 90.20(a)(2)(xiv) published at 81 FR 66538, September 28, 2016, are effective July 6, 2017.

FOR FURTHER INFORMATION CONTACT: John A. Evanoff, Policy and Licensing Division, Public Safety and Homeland Security Bureau, at (202) 418-0848, or email: john.evanoff@fcc.gov.

SUPPLEMENTARY INFORMATION: This document announces that, on June 8, 2017, OMB approved, for a period of three years, the information collection requirements relating to the public safety pool eligibility rules contained in the Commission's *Order*, FCC 16-113, published at 81 FR 66538, September 28, 2016. The OMB Control Number is 3060-1231. The Commission publishes this document as an announcement of the effective date of the rules. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Nicole Ongele, Federal Communications Commission, Room 1-A620, 445 12th Street SW., Washington, DC 20554. Please include the OMB Control Number, 3060-1231, in your correspondence. The Commission will also accept your comments via email at PRA@fcc.gov.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@

fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received final OMB approval on June 8, 2017, for the information collection requirements contained in the modifications to the Commission's rules in 47 CFR part 90.

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 Number is 3060-1231.

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: 3060-1231.

OMB Approval Date: June 8, 2017.

OMB Expiration Date: June 30, 2020.

Title: Section 90.20 (xiv), Public Safety Pool.

Form Number: N/A.

Respondents: Business or other for-profit entities, and state, local, or tribal government.

Number of Respondents and Responses: 1,526 respondents; 1,526 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: One-time; on occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections are contained in sections 1, 2, 4(i), 4(j), 301, 303, 316, and 337 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 301, 303, 316, and 337.

Total Annual Burden: 1,526 hours.

Total Annual Cost: None.

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

Privacy Act: No impact(s).

Needs and Uses: On August, 23, 2016, the Federal Communications Commission released a Report and Order, FCC 16-113, PS Docket No. 15-199 (see attached) that modified part 90 of the Rules Private Land Mobile Radio Services. The amended rule revises the

part 90 eligibility rules to permit railroad police officers to access the interoperability. Specifically, the Commission modified § 90.20(a)(2)(xiv) to provide that:

1. Railroad police officers are a class of users eligible to operate on the nationwide interoperability and mutual aid channels listed in § 90.20(i) provided their employer holds a Private Land Mobile Radio (PLMR) license of any radio category, including Industrial/Business (I/B). Eligible users include full and part time railroad police officers, Amtrak employees who qualify as railroad police officers under this subsection, Alaska Railroad employees who qualify as railroad police officers under this subsection, freight railroad employees who qualify as railroad police officers under this subsection, and passenger transit lines police officers who qualify as railroad police officers under this subsection. Railroads and railroad police departments may obtain licenses for the nationwide interoperability and mutual aid channels on behalf of railroad police officers in their employ. Employers of railroad police officers must obtain concurrence from the relevant state interoperability coordinator or regional planning committee before applying for a license to the Federal Communications Commission or operating on the interoperability and mutual aid channels.

- Railroad police officer means a peace officer who is commissioned in his or her state of legal residence or state of primary employment and employed, full or part time, by a railroad to enforce state laws for the protection of railroad property, personnel, passengers, and/or cargo.

- Commissioned means that a state official has certified or otherwise designated a railroad employee as qualified under the licensing requirements of that state to act as a railroad police officer in that state.

- Property means rights-of-way, easements, appurtenant property, equipment, cargo, facilities, and buildings and other structures owned, leased, operated, maintained, or transported by a railroad.

- Railroad means each class of freight railroad (*i.e.*, Class I, II, III); Amtrak, Alaska Railroad, commuter railroads and passenger transit lines.

- The word state, as used herein, encompasses states, territories and the District of Columbia.

2. Eligibility for licensing on the 700 MHz narrowband interoperability channels is restricted to entities that have as their sole or principal purpose the provision of public safety services.

To effectively implement the provisions of the new Rule, no other modifications to existing FCC rules are required. The changes are intended to simplify the licensing process for railroad police officers and ensure interoperable communications. The modified rules provide a benefit to public safety licensees by ensuring that only railroad police officers with appropriate governmental authorization can operate on the interoperability and mutual aid channels during emergencies. This will provide the additional benefit of promoting interoperability with railroad police officers by eliminating eligibility as a gating factor when licensing spectrum. The *Report and Order* reduces the burden on railroad police by allowing them to meet eligibility standard by requiring employers of railroad police officers to obtain concurrence from the relevant state interoperability coordinator or regional planning committee before applying for a license to the Federal Communications Commission or operating on the interoperability and mutual aid channels. Compliance with this requirement is already a requisite for public safety eligibility to use the interoperability and mutual aid channels, consequently any new burden imposed by this requirement would be minimal.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017-14163 Filed 7-5-17; 8:45 am]

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SURFACE TRANSPORTATION BOARD

49 CFR Part 1300

[Docket No. EP 528 (Sub-No. 1); Docket No. EP 665 (Sub-No. 1)]

Publication Requirements for Agricultural Products; Rail Transportation of Grain, Rate Regulation Review

AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (Board) is adopting final rules amending its regulations on the publication of rate and service terms for agricultural products and fertilizer. The Board also denies a petition for reconsideration of the Board's policy statement regarding aggregation of claims and standing issues as they relate to rate complaint procedures.

DATES: This rule is effective July 30, 2017.

ADDRESSES: Information or questions regarding these final rules should reference Docket No. EP 528 (Sub-No. 1) and be in writing addressed to Chief, Section of Administration, Office of Proceedings, Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001.

FOR FURTHER INFORMATION CONTACT: Sarah Fancher at (202) 245-0355. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: In November 2006, the Board held a hearing in *Rail Transportation of Grain*, Docket No. EP 665, as a forum for interested persons to provide views and information about grain transportation markets. The hearing was prompted by concerns regarding rates and service issues related to the movement of grain raised by Members of Congress, grain producers, and other stakeholders. In January 2008, the Board closed that proceeding, reasoning that guidelines for simplified rate procedures had recently been adopted¹ and that those procedures would provide grain shippers with a new avenue for rate relief. *Rail Transp. of Grain*, EP 665, slip op. at 5 (STB served Jan. 14, 2008). The Board noted, however, that it would continue to monitor the relationship between carriers and grain interests, and that, if future regulatory action were warranted, it would open a new proceeding. *Id.*

In *Rate Regulation Reforms*, EP 715 (STB served July 25, 2012), the Board proposed several changes to its rate reasonableness rules. However, based on the comments received in that docket from grain shipper interests, which in part stated that the proposed changes did not provide meaningful relief to grain shippers, the Board commenced a separate proceeding in *Rail Transportation of Grain, Rate Regulation Review*, Docket No. EP 665 (Sub-No. 1) in December 2013 to deal specifically with the concerns of grain shippers. The Board invited public comment on how to ensure that the Board's existing rate complaint procedures are accessible to grain shippers and provide effective protection against unreasonable freight rail transportation rates. The Board also sought input from interested parties on

grain shippers' ability to effectively seek relief for unreasonable rates, including proposals for modifying existing procedures, or for new alternative rate relief methodologies, should they be necessary. The Board received comments and replies from numerous parties.

On May 8, 2015, the Board announced that it would hold a public hearing and invited parties to discuss rate reasonableness accessibility for grain shippers, as well as other issues, including: Whether the Board should allow multiple agricultural farmers and other agricultural shippers to aggregate their distinct rate claims against the same carrier into a single proceeding, and whether the disclosure requirement for agricultural tariff rates should be modified to allow for increased transparency. The public hearing was held on June 10, 2015, and the Board received post-hearing supplemental comments from interested parties through June 24, 2015.

Although much of the commentary and testimony received pertained to existing or proposed rate relief methodologies for agricultural commodity shippers, the comments and testimony also touched on various other issues related to grain. To address the commentary on rate relief methodologies, the Board issued an Advance Notice of Proposed Rulemaking, which proposed to develop a new rate reasonableness methodology for use in very small disputes, in a decision served on August 31, 2016, in Docket No. EP 665 (Sub-No. 1) and *Expanding Access to Rate Relief*, Docket No. EP 665 (Sub-No. 2). In response to comments on other grain-related matters, the Board issued a Notice of Proposed Rulemaking (NPRM), which proposed amendments to its regulations addressing publication of rates for agricultural products and fertilizer, and a policy statement, which addressed standing and aggregation of claims for rate complaint procedures, in a decision served on December 29, 2016 in Docket Nos. EP 528 (Sub-No. 1) and EP 665 (Sub-No. 1). The proposed rules were published in the **Federal Register**, 82 FR 805 (Jan. 4, 2017), and parties submitted comments in response to the NPRM.²

² The Board received comments from the following: Alliance for Rail Competition (joined by National Farmers Union, Idaho Barley Commission, Idaho Wheat Commission, Montana Farmers Union, North Dakota Farmers Union, South Dakota Farmers Union, Minnesota Farmers Union, Wisconsin Farmers Union, Nebraska Wheat Board, Oklahoma Wheat Commission, Oregon Wheat Commission, South Dakota Wheat Commission, Texas Wheat Producers Board, Washington Grain Commission, Wyoming Wheat Marketing Commission, North Dakota Grain Dealers Association, Idaho Grain

On January 24, 2017, the Board received a petition for reconsideration of its policy statement regarding aggregation of claims and standing from Larry R. Miller, Jr., for and on behalf of SMART/TD General Committee of Adjustment GO-386 (SMART-TD).

After consideration of the parties' comments, the Board is adopting final rules amending its regulations governing the publication of rate and service terms for agricultural products and fertilizer to require Class I railroads to publish such rates and service terms on their Web sites. This change modernizes the Board's regulations to reflect the fact that Class I railroads today are more likely to disseminate information to customers and the general public using company Web sites. For the reasons discussed below, the Board also denies SMART-TD's petition for reconsideration of the policy statement on standing and aggregation of claims for rate complaints.

Final Rules Regarding Agricultural Rate Publication

In the ICC Termination Act of 1995, Public Law 104-88, 109 Stat. 803, Congress eliminated the tariff requirements that were formerly applicable to rail carriers and imposed instead certain obligations to disclose common carriage rates and service terms. One of these requirements, applicable only to the transportation of agricultural products, is that rail carriers must publish, make available, and retain for public inspection, their common carrier rates, schedules of rates, and other service terms, and any proposed and actual changes to such rates and service terms. 49 U.S.C. 11101(d). The statute states that the term "agricultural products" includes grain, as defined in 7 U.S.C. 75 and all products thereof, and fertilizer. *Id.*

The Board adopted regulations to implement the requirements of section 11101(d), in *Disclosure, Publication, & Notice of Change of Rates & Other Service Terms for Rail Common Carriage (Disclosure)*, 1 S.T.B. 153 (1996). Those regulations are codified at 49 CFR 1300.5. Under those regulations, the information required to be published "must include an accurate description of the services offered to the public; must provide the specific

Producers Association, USA Dry Pea and Lentil Council, US Dry Bean Council, and US Glass Producers Transportation Council) (collectively, ARC); Montana Department of Agriculture; National Grain and Feed Association (NGFA); The Fertilizer Institute (TFI); Union Pacific Railroad Company (UP); and U.S. Department of Agriculture (USDA). The Board also received a letter from BNSF Railway Company (BNSF) and a reply from ARC.

¹ *Simplified Standards for Rail Rate Cases*, EP 646 (Sub-No. 1) (STB served Sept. 5, 2007), *aff'd sub nom. CSX Transp., Inc. v. STB*, 568 F.3d 236 (D.C. Cir. 2009), *vacated in part on reh'g*, 584 F.3d 1076 (D.C. Cir. 2009).

applicable rates (or the basis for calculating the specific applicable rates), charges, and service terms; and must be arranged in a way that allows for the determination of the exact rate, charges, and service terms applicable to any given shipment (or to any given group of shipments).” 49 CFR 1300.5(b). Rail carriers must make the information available, without charge, during normal business hours, at offices where they normally keep rate information, 49 CFR 1300.5(c), and to all persons who have subscribed to a publication service operated either by the rail carrier itself or by an agent acting at the rail carrier’s direction, 49 CFR 1300.5(d).³

In the NPRM, the Board proposed amendments to 49 CFR 1300.5 to update the publication requirements for the transportation of agricultural products and fertilizer. The Board proposed to revise these publication requirements, which were adopted in 1996, to reflect the fact that Class I railroads often use company Web sites or other applications to disseminate information to customers and the general public, as opposed to publication methods that likely were more prevalent at the time of promulgation (e.g., subscription services and maintenance of paper documents at railroad offices). As a result, the Board proposed to require Class I rail carriers to publish the information required under section 1300.5(a) on their Web sites.⁴ All rail carriers would also continue to be required to make agricultural rate and service information available at their public offices. See 49 CFR 1300.5(c).

In addition, the proposed amendments requiring Web site publication for Class I railroads would require that agricultural rate and service information be made available to “any person,” as currently required by section 1300.5, so that the rate information published online would be readily available to anyone, regardless of whether a person is a current or potential customer or receiver of a railroad. Finally, the proposed rules informed parties having difficulty accessing the agricultural rates and service terms to contact the Board’s Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC).

³ The Board noted when adopting these regulations that the publication requirements were applicable only to non-exempted agricultural products and fertilizer. *Disclosure*, 1 S.T.B. at 160. Many agricultural commodities and products have been exempted as a class from the Board’s regulations. See 49 CFR 1039.10.

⁴ The NPRM did not propose to require Class II and Class III carriers to comply with the online publication requirement.

Commenters generally support the proposed amendments to 49 CFR 1300.5,⁵ subject to certain requests for modifications and clarifications. Below the Board addresses parties’ comments on (1) registration requirements and related issues, (2) the definition of “anyone” and “any person,” (3) machine-readable formats, and (4) Class II and III rail carriers’ publication requirements. In response to parties’ comments, the Board modifies the rules proposed in the NPRM. The text of the final rules is below.

Registration Requirements and Related Issues. Shippers seek clarification on the extent to which railroads may use registration features as a prerequisite to viewing agricultural rate and service information online. TFI asks the Board to find that it is not appropriate for railroads to impose “cumbersome and time-consuming registration requirements” to access public tariffs. (TFI Comment 4.) ARC states that railroads should not be allowed to impose burdensome registration requirements that ask for detailed information, such as a “showing of ‘need’ or ‘relevance,’” and that access to agricultural rate and service information should be “simple and expeditious.” (ARC Comment 9; ARC Reply 4 (comparing the proposed rules to the requirement in 49 CFR 1300.2(b) that information “must be provided immediately”).) ARC further comments that, if permitted to use registration requirements, railroads could discourage or deny certain persons from access to online tariffs. (ARC Comment 9; ARC Reply 4.)

Similarly, NGFA requests that the Board address “existing barriers and shortcomings that exist on some Class I railroads’ Web sites that substantively impede access to tariff rate information and service terms.” (NGFA Comment 4.) NGFA states that it does not object to railroads using registration features, but that the final rules should require these

⁵ See ARC Reply 2 (“All commenters support the Board’s proposed amendments, though some suggest improvements.”); Montana Department of Agriculture Comment 1 (“[T]he Department supports the proposal by the Board to make rate information available online.”); NGFA Comment 1 (“NGFA commends and strongly supports the Board’s proposal to update its 20-year-old rules to require that all Class I railroads make publicly available online their common carrier tariff rates, charges and other service terms, as well as subsequent changes to such rates, charges and terms, for agricultural products and fertilizer.”); TFI Comment 2 (“TFI supports updating the [Board] regulations to reflect . . . modern practices.”); UP Comment 1 (“In general, UP supports the proposals and statements in the Notice.”); USDA Comment 2 (“USDA appreciates and supports the Board’s action to update its regulatory language regarding the publication of rate and service terms for agricultural products and fertilizer. . . .”).

registration features to provide for “immediate and unrestricted access to any person—not just current or potential customers—of all tariff rates, pricing information and all applicable service terms and conditions for agricultural commodities and fertilizer.” (*Id.* at 5–6.) NGFA also states that it supports the Board’s proposal to direct parties having difficulty accessing this information to contact OPAGAC, but that if the final rules require railroads “to remove existing barriers and hurdles to accessing such information,” there should be fewer such requests. (*Id.* at 6.)

The Board understands shippers’ concerns regarding the potential use of registration requirements to restrict online access to agricultural rate and service information. In the NPRM, the Board sought to update 49 CFR 1300.5 to make such information more readily accessible by adopting modern practices of disseminating information. But, as shippers note in their comments, the use of registration features could be used to deny or discourage certain persons from accessing agricultural rate and service information. (See, e.g., ARC Comment, V.S. Whiteside 12 (discussing railroads’ existing registration requirements).) The Board finds that denial (or unreasonable delay) of access through such use of registration requirements would undermine the statutory authority for, and regulatory purpose of, 49 CFR 1300.5—which is to make agricultural rate and service information available for public inspection. See 49 U.S.C. 11101(d).

Accordingly, the Board will modify the final rules to include language allowing railroads to use registration requirements that are not unduly burdensome and that provide timely and unrestricted access to agricultural rate and service information to any person. See text of rules below (stating “Class I rail carriers may require persons accessing such information to register, but such registration requirements may not be overly burdensome, must provide timely access to the information, and cannot prevent specific types of persons from obtaining the information.”). Under this standard, the Board would not prohibit railroads from using registration features, but would require that registration requirements be structured in a manner that allows anyone who requests it to view the agricultural rate and service information.⁶ For example, registration features that require a showing of “need” or “relevance,” or proof that a person or entity is a

⁶ This standard is consistent with rules proposed in the NPRM. See NPRM at 5 n.6.

customer or potential customer, as a prerequisite to accessing agricultural rate and service information would be prohibited. However, registration requirements that require a person to provide basic information, such as his or her name and email address, without requiring a certain type of email address, would be permissible.

The Board will also adopt as part of the final rules a provision suggesting that persons having difficulty accessing such information contact OPAGAC.⁷ The Board encourages parties to contact OPAGAC if they encounter registration requirements that are unduly burdensome or fail to provide timely access to agricultural rate and service information. The Board believes such an approach will help ensure that such information is made readily available to the public.

In addition, commenters seek clarification as to where and how agricultural rate and service information must be posted. ARC asks the Board to revise the final rules to indicate that online access must be made available at no charge and to clarify that online tariff information, once obtained, may be freely shared. (ARC Comment 6, 9; see also ARC Comment, V.S. Whiteside 15.) ARC further states that online access under section 1300.5(c) should mean that online notice of “scheduled changes in rates, charges and service terms” must be provided, as currently required by section 1300.5(a). (ARC Reply 2–3.)

Other commenters also ask the Board to prohibit railroads from placing “public tariffs in non-public areas of a railroad’s Web site,” (TFI Comment 4), or require Class I railroads to clearly indicate on their Web site homepages whether and where interested persons can access public tariff, rate, and service information online, (NGFA Comment 5–6). Similarly, USDA states that it should be clear “where and how shippers and the public [can] access” agricultural rate information on a railroad’s Web site. (USDA Comment 3.) TFI also asks the Board to clarify what constitutes making this “information available to any person online.” (TFI Comment 2.)

The Board confirms that online access to agricultural rate and service information must be available at no charge and that, once obtained, this information may be freely shared. Accordingly, the Board will modify the final rules to state that agricultural rate and service information must be made

available online “without charge.” See text of rules below. Additionally, the Board confirms that online access under the revised section 1300.5(c) means that Class I carriers must provide online notice of “scheduled changes in rates, charges and service terms.” To be clear, the Board intends for the term “information” in revised section 1300.5(c) to refer to all of the information currently required in § 1300.5(a) and (b). Indeed, none of the changes proposed in the NPRM were intended to change the type of information that carriers must make available, only to require that it be provided online in addition to the current requirements. However, to further clarify this, the Board has added a reference to § 1300.5(a) and (b) in the revised version of § 1300.5(c).

Concerning where agricultural rate and service information is posted on railroads’ Web sites, the final rules have been modified to require that this information be made “readily” available online. The Board believes this language sufficiently ensures that persons can access agricultural rate and service information in a reasonable manner, without the Board prescribing how and where railroads, each of which has a distinct Web site, must place such information. Accordingly, to maintain flexibility for implementation by Class I railroads, the Board declines to include in the final rules other specific requirements suggested by commenters.

Finally, with respect to what constitutes “mak[ing] th[is] information available to any person online,” railroads may post agricultural rate and service information on their Web sites in PDF or spreadsheet format, or in any other format that is readily accessible. As discussed in more detail below, the Board will not specify in the final rules a method or format for posting this information, as rail carriers may have different preferences depending on their Web sites.

Definitions of “Anyone” and “Any Person.” UP asks that the Board clarify whether the definition of “anyone,” as used in the text of the NPRM, includes brokers, trade associations, law firms, or other carriers. UP also asks whether the definition of “any person,” as used in section 1300.5, is limited to current or potential rail customers or rail receivers and, if not, whether the information that is required to be made public in section 1300.5 must be made available to anyone. (UP Comment 2.) On reply, ARC asks the Board to find that “any person,” as used in the regulations, should include all persons, regardless of whether they are customers or potential customers. (ARC Reply 3.)

The Board’s use of the term “anyone” in the NPRM, includes, but is not limited to, brokers, trade associations, law firms, and other carriers. The definition of “any person” in § 1300.5 (which is not changed in these final rules) likewise is *not* limited to current or potential rail customers or rail receivers.⁸ Rather, the information subject to § 1300.5 must be made available to anyone—meaning that any person, company, association, governmental entity, or other entity must be able to access the tariff and rate information for agricultural commodities and fertilizer.

Machine-Readable Format. USDA states that the requirement under § 1300.5 to make agricultural rate and service information available for public inspection means that the records must (1) be available to the public and (2) provided in a useable form for examination and inspection. (USDA Comment 2.) According to USDA, some Class I carriers offer “pricing portals” on their Web sites, which provide “a handy way to search and find rates given the shipment’s criteria, such as product, origin, and destination.” (*Id.* at 3.) However, other “railroads . . . provide [this] information, such as schedules of rates, in PDF-form, which is less accessible to shippers and the public, and is difficult to use.” (*Id.* at 2–3.) As a result, USDA recommends that the Board require railroads to retain tariff rate records where appropriate in a machine-readable format. (*Id.*)

The Board commends railroads for providing “pricing portals” on their Web sites, which offer enhanced functionality that enables users to search and find rates based on various shipment criteria.⁹ At this time, however, the Board declines to require Class I railroads to provide information subject to § 1300.5 in a “machine-readable” or sortable/searchable format. The proposed and final rules seek to update the requirements of § 1300.5 to modern practices of posting information online. Without additional information on the various formats a machine-readable or sortable/searchable requirement could take, the burden associated with such a requirement is unclear. The Board therefore declines to adopt such a requirement in the final rules. However, the Board nonetheless encourages Class I railroads to provide,

⁸ The Board uses the terms “anyone” and “any person” interchangeably in this decision and the NPRM.

⁹ See BNSF Letter, March 20, 2017 (describing BNSF’s pricing portal and its efforts to streamline its Web site’s registration features).

⁷ Although the NPRM proposed to say that persons having difficulty accessing agricultural rate and service information “should” contact OPAGAC, the final rules provide that such persons “may” contact OPAGAC for assistance.

or to continue to provide, pricing portals.

Class II and III Rail Carriers' Publication Requirements. TFI, NGFA, and ARC ask the Board to require Class II and III rail carriers that already publish tariffs online to abide by the same online publication requirements as Class I railroads. (ARC Comment 8; NGFA Comment 6; TFI Comment 4; ARC Reply 3. *See also* ARC Comment, V.S. Whiteside 19.) ARC states that it is not aware of any hardships that such a requirement would impose on these Class II and III rail carriers, and TFI notes that the "shortline carriers with which TFI members regularly interact already meet such standards." (TFI Comment 4; ARC Reply 3.)

Although the Board encourages Class II and III rail carriers to provide agricultural rate and service information online as they are able, the Board declines to make this a requirement at this time. Class II and III rail carriers are diverse and have fewer resources than Class I railroads. The record in Docket No. EP 528 (Sub-No. 1) does not establish whether such a requirement would be unduly burdensome. Moreover, such a requirement could present enforcement issues because it would be unevenly applicable, given that some Class II and III carriers publish tariffs online today while others do not.

Policy Statement on Aggregation of Claims and Standing Issues

In the December 2016 decision, the Board issued a policy statement, addressing standing and aggregation of claims, in response to questions and comments previously raised by stakeholders in Docket No. EP 665 (Sub-No. 1). The Board's policy statement provided:

- Under section 11701(b), grain producers (and other indirectly harmed complainants) that file rate complaints cannot be disqualified due to the absence of direct damage;
- Indirectly harmed complainants must nevertheless have standing to proceed with a complaint;
- Although not bound by the requirements of judicial standing, the Board may look to those requirements to guide (though not necessarily govern) its standing determinations;
- Grain producers should be able to establish standing before the Board on a case-by-case basis, given that the price producers receive from elevators for their grain is generally affected at least to some extent by the transportation rate the railroad charges to the grain elevators; and

- Parties may seek to aggregate their rate claims, and the Board will make such determinations on whether such claims are properly aggregated on a case-by-case basis, considering factors such as whether the claims or defenses involve common questions of law or fact, whether administrative efficiencies could be achieved through aggregation, and the number of claims being aggregated. NPRM at 5–8.

In response, parties comment that the Board should provide further clarification on certain issues related to standing and aggregation of claims in rate cases and, in its petition for reconsideration, SMART–TD asks the Board to reopen, reconsider, and vacate the policy statement. Below the Board addresses parties' comments and SMART–TD's petition for reconsideration.

Parties' Comments. ARC asks the Board to clarify the issue of representational or parens patriae standing. ARC also raises issues related to reparations¹⁰ and the need for a reasonableness test that constrains excessive rates on captive shippers.¹¹ UP seeks clarification regarding how the policy statement will affect rate relief in Three-Benchmark cases, which is capped at \$4 million (indexed annually for inflation), for complainants that did not suffer direct damage. UP also seeks clarification on whether third-party discovery will be readily available in rate cases where the complainant does not have possession, custody, or control of information relevant to the proceeding. (UP Comment 2–4.) On reply, ARC argues that these issues should be decided on a case-by-case basis, as these questions are difficult to answer in the abstract and doing so would fail to serve the public interest. (ARC Reply 2, 4–7.)

Concerning ARC's comments related to reparations, the Board's policy

¹⁰ ARC claims that the Association of American Railroads (AAR) previously stated in Docket No. EP 665 (Sub-No. 1) in 2014 that "reparations are available only to the person responsible for the freight charges, suggesting that only a shipper or consignee would have standing to seek reparations" and therefore "the Board lacks authority to prescribe a rate on the basis of a complaint by a party other than a shipper." (ARC Comment 13–14.) ARC states that under the AAR's interpretation, non-shippers would be permitted to file rate complaints, but could not be awarded any relief. ARC claims that this was not the intent of Congress in 49 U.S.C. 11701(b). (*Id.* at 14.)

¹¹ ARC states that greater clarity on standing is "necessary but not sufficient" and states that it needs "one or more tests of reasonableness that constrain excessive rates on captive agricultural products and fertilizer shipments, even where the rates apply to groups of shippers, or to States or regions." (ARC Comment 10; *see id.* at 3–4; ARC Reply 5.)

statement did not address the issue of reparations, including which parties are eligible to receive them, and the Board declines to do so here. *See* NPRM at 6 n.7. (ARC Comment 13.) Moreover, ARC's request for a new rate reasonableness test is beyond the scope of the policy statement. Finally, ARC's and UP's other comments raise considerations that are more appropriately addressed on a case-by-case basis, rather than a policy statement.

Petition for Reconsideration. In its request to vacate the policy statement, SMART–TD argues that the Board materially erred in adopting a test for determining whether a party has standing to file a rate complaint.¹² SMART–TD claims that the policy statement failed to "adequately set forth the various positions of the rail carriers on the standing issue" and argues that the Board's "legal reasoning for issuance of its standing policy statement is invalid." (SMART–TD Pet. 6, 10.) ARC states similar concerns, noting that the Board's policy statement cites the three-part test for standing in federal court, which is more restrictive than the standing requirement applicable to proceedings before the Board. (ARC Comment 11–13.)

SMART–TD's petition for reconsideration and related comments raise concerns that involve case-specific considerations (some of which implicate proceedings other than the particular type of rate complaints that were the subject of the Board's policy statement). Accordingly, the Board will not further address these issues at this time, or reopen or vacate the policy statement in response to SMART–TD's petition.

Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3521, the Board will seek approval from the Office of Management and Budget (OMB) for this collection in a separate notice. Any comments received by the Board from that notice will be forwarded to OMB for its review and will be posted under Docket No. EP 528 (Sub-No. 1).

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, generally requires a description and analysis of new rules that would have a significant

¹² Contrary to SMART–TD's statement that the "policy statement is not restricted to grain rate matters, but applies generally to complaint proceedings," (SMART–TD Pet. 3), the Board's policy statement applies only to rate complaints brought under 49 U.S.C. 11701(b). *See, e.g.*, NPRM at 1 (stating that "[t]he Board also clarifies its policies on standing and aggregation of claims as they relate to rate complaint procedures").

economic impact on a substantial number of small entities. In drafting a rule, an agency is required to: (1) Assess the effect that its regulation will have on small entities; (2) analyze effective alternatives that may minimize a regulation's impact; and (3) make the analysis available for public comment. Sections 601–604. Under section 605(b), an agency is not required to perform an initial or final regulatory flexibility analysis if it certifies that the proposed or final rules will not have a “significant impact on a substantial number of small entities.”

Because the goal of the RFA is to reduce the cost to small entities of complying with federal regulations, the RFA requires an agency to perform a regulatory flexibility analysis of small entity impacts only when a rule directly regulates those entities. In other words, the impact must be a direct impact on small entities “whose conduct is circumscribed or mandated” by the proposed rule. *White Eagle Coop. Ass'n v. Conner*, 553 F.3d 467, 478, 480 (7th Cir. 2009). An agency has no obligation to conduct a small entity impact analysis of effects on entities that it does not regulate. *United Distrib. Cos. v. FERC*, 88 F.3d 1105, 1170 (D.C. Cir. 1996).

In the NPRM, the Board certified under 5 U.S.C. 605(b) that the proposed rules would not have a significant economic impact on a substantial number of small entities within the meaning of the RFA.¹³ The Board explained that the proposed rule would not place any additional burden on small entities because the proposed rule of requiring rate information to be published online would be limited to Class I rail carriers. No parties submitted comments on this issue. A copy of the NPRM was served on the U.S. Small Business Administration (SBA).

The final rules adopted here revise the rules proposed in the NPRM. However, the same basis for the Board's certification of the proposed rules applies to the final rules adopted here.

¹³ Effective June 30, 2016, for the purpose of RFA analysis for rail carriers subject to Board jurisdiction, the Board defines a “small business” as a rail carrier classified as a Class III rail carrier under 49 CFR 1201.1–1. See *Small Entity Size Standards Under the Regulatory Flexibility Act*, EP 719 (STB served June 30, 2016) (with Board Member Begeman dissenting). Class III carriers have annual operating revenues of \$20 million or less in 1991 dollars, or \$35,809,698 or less when adjusted for inflation using 2016 data. Class II rail carriers have annual operating revenues of less than \$250 million in 1991 dollars or less than \$447,621,226 when adjusted for inflation using 2016 data. The Board calculates the revenue deflator factor annually and publishes the railroad revenue thresholds on its Web site. 49 CFR 1201.1–1.

The final rules would not create a significant impact on a substantial number of small entities, as the regulations would only specify procedures related to Class I railroads and do not mandate or circumscribe the conduct of small entities. Therefore, the Board certifies under 5 U.S.C. 605(b) that the final rules will not have a significant economic impact on a substantial number of small entities within the meaning of the RFA. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration, Washington, DC 20416.

It is ordered:

1. The final rules set forth below are adopted and will be effective July 30, 2017.
2. SMART–TD's petition for reconsideration of the policy statement is denied.
3. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration.
4. This decision is effective on July 30, 2017.

List of Subjects in 49 CFR Part 1300

Administrative practice and procedure, Agricultural commodities, Railroads, Reporting and recordkeeping requirements.

Decided: June 28, 2017.

By the Board, Board Members Begeman, Elliott, and Miller. Board Member Miller dissented in part with a separate expression.

Rena Laws-Byrum,
Clearance Clerk.

Board Member Miller, dissenting in part:
I dissent from the Board's decision not to require that the agricultural tariff data be provided in a machine-readable format.

The Board decided to initiate this rulemaking because of its concern that the existing regulations make the agricultural tariffs less accessible than they should be. Yet the Board undercuts the value of this update to the regulations by allowing railroads to continue to provide the information in a less accessible format. As the USDA points out, having this information in a machine-readable format is important. The information contained in the tariffs can be vast and making it machine-readable would allow users to search, sort, and filter the data based on their individual needs. The federal government itself has recognized the value of providing data in machine-readable formats.¹ I disagree with the

¹ See Exec. Order No. 13,642, *Making Open and Machine Readable the New Default for Government*

majority's decision not to make this a requirement here.

First, the majority states that “[t]he proposed . . . rules seek to update the requirements of § 1300.5 to modern practices of posting information online.” The majority's implication appears to be that requiring information in a machine-readable format would be outside the scope of the NPRM. Although the Board did not expressly propose requiring railroads to provide tariff information in a machine-readable format in the NPRM, that would not have prevented the Board from adopting this requirement as part of the final rules, as the requirement would have been a logical outgrowth of the NPRM.²

The second reason given by the majority for not requiring that carriers provide information in machine-readable format is that the burden of such a requirement is “unclear.” With today's technology, it is hard to imagine that it would be burdensome for major U.S. corporations to put information in a machine-readable format.

For these reasons, I respectfully dissent from the majority on this issue.

For the reasons set forth in the preamble, the Surface Transportation Board amends its title 49, chapter X, subchapter D, of the Code of Federal Regulations as follows:

Information, 78 FR 28111 (May 9, 2013) (“To promote continued job growth, Government efficiency, and the social good that can be gained from opening Government data to the public, the default state of new and modernized Government information resources shall be open and machine readable.”); Office of Management and Budget (OMB) Circular No. A–130, *Managing Federal Information as a Strategic Resource*, at 14, revised July 28, 2016 (agencies must “[publish] public information online in a manner that promotes analysis and reuse for the widest possible range of purposes, meaning that the information is publicly accessible, machine-readable, appropriately described, complete, and timely.”).

² In *CSX Transp., Inc. v. Surf. Transp. Bd.*, 584 F.3d 1076, 1079 (D.C. Cir. 2009), the court held that a final rule qualifies as a logical outgrowth if interested parties “should have anticipated” that the change was possible, and that the final rule was not “surprisingly distant” from the proposal rule. The Board stated that it was initiating the NPRM (at 4–5) because it believed that “it is appropriate to update our regulations to reflect these modern practices.” Providing information in a machine-readable format is clearly a “modern practice” in line with the Board's goal of updating its regulations in this area, and thus should have been anticipated. Machine-readability is also so closely tied to issues that were expressly proposed in the NPRM that it could not be claimed that such a requirement would have been surprisingly distant from the proposed rule.

**PART 1300—DISCLOSURE,
PUBLICATION, AND NOTICE OF
CHANGE OF RATES AND OTHER
SERVICE TERMS FOR RAIL COMMON
CARRIAGE**

■ 1. The authority citation for part 1300 is revised to read as follows:

Authority: 49 U.S.C. 1321 and 11101(f).

■ 2. In § 1300.5, amend paragraph (c) by adding three sentences at the end of the paragraph to read as follows:

**§ 1300.5 Additional publication
requirement for agricultural products and
fertilizer.**

* * * * *

(c) * * * If a rail carrier is a Class I rail carrier, it must also make the information readily available online to any person without charge. Class I rail carriers may require persons accessing such information to register, but such registration requirements may not be overly burdensome, must provide timely access to the information, and cannot prevent specific types of persons

from obtaining the information. Persons having difficulty accessing the information required by paragraphs (a) and (b) of this section may either send a written inquiry addressed to the Director, Office of Public Assistance, Governmental Affairs, and Compliance or telephone the Board's Office of Public Assistance, Governmental Affairs, and Compliance.

* * * * *

[FR Doc. 2017-14180 Filed 7-5-17; 8:45 am]

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Proposed Rules

Federal Register

Vol. 82, No. 128

Thursday, July 6, 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 LABOR

Employee Benefits Security Administration

29 CFR Parts 2509, 2510, and 2550

RIN 1210-AB82

Request for Information Regarding the Fiduciary Rule and Prohibited Transaction Exemptions

AGENCY: Employee Benefits Security Administration, U.S. Department of Labor.

ACTION: Request for information.

SUMMARY: The Employee Benefits Security Administration of the U.S. Department of Labor (the Department) is publishing this Request for Information in connection with its examination of the final rule defining who is a “fiduciary” of an employee benefit plan for purposes of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code, as a result of giving investment advice for a fee or other compensation with respect to assets of a plan or IRA (Fiduciary Rule or Rule). The examination also includes the new and amended administrative class exemptions from the prohibited transaction provisions of ERISA and the Code that were published in conjunction with the Rule (collectively, the Prohibited Transaction Exemptions or PTEs). This Request for Information specifically seeks public input that could form the basis of new exemptions or changes/revisions to the rule and PTEs, and input regarding the advisability of extending the January 1, 2018, applicability date of certain provisions in the Best Interest Contract Exemption, the Class Exemption for Principal Transactions in Certain Assets Between Investment Advice Fiduciaries and Employee Benefit Plans and IRAs, and Prohibited Transaction Exemption 84-24.

DATES: Comments in response to question 1 (relating to extending the January 1, 2018, applicability date of

certain provisions) should be submitted to the Department on or before July 21, 2017. Comments in response to all other questions should be submitted to the Department on or before August 7, 2017. The Department requests that comments be received within these timeframes to ensure their consideration.

ADDRESSES: All written comments should be sent to the Office of Exemption Determinations by any of the following methods, identified by RIN 1210-AB82:

- *Federal eRulemaking Portal:* <http://www.regulations.gov> at Docket ID number: EBSA-2017-0004. Follow the instructions for submitting comments.

- *Email to:* EBSA.FiduciaryRuleExamination@dol.gov.

- *Mail:* Office of Exemption Determinations, EBSA, (Attention: D-11933), U.S. Department of Labor, 200 Constitution Avenue NW., Suite 400, Washington, DC 20210.

- *Hand Delivery/Courier:* OED, EBSA (Attention: D-11933), U.S. Department of Labor, 122 C St. NW., Suite 400, Washington, DC 20001.

Comments will be available for public inspection in the Public Disclosure Room, EBSA, U.S. Department of Labor, Room N-1513, 200 Constitution Avenue NW., Washington, DC 20210. Comments will also be available online at www.regulations.gov, at Docket ID number: EBSA-2017-0004 and www.dol.gov/ebsa, at no charge. Do not include personally identifiable information or confidential business information that you do not want publicly disclosed. Comments online can be retrieved by most Internet search engines.

FOR FURTHER INFORMATION CONTACT: Brian Shiker, telephone (202) 693-8824, Office of Exemption Determinations, Employee Benefits Security Administration.

SUPPLEMENTARY INFORMATION: On April 8, 2016 (81 FR 20946), the Department published the Fiduciary Rule, which defines who is a “fiduciary” of an employee benefit plan under section 3(21)(A)(ii) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), as a result of giving investment advice to a plan or its participants or beneficiaries. The Fiduciary Rule also applies to the definition of a “fiduciary” of a plan (including an individual retirement

account (IRA)) under section 4975(e)(3)(B) of the Internal Revenue Code of 1986 (Code).

On the same date, the Department published two new administrative class exemptions from the prohibited transaction provisions of ERISA (29 U.S.C. 1106) and the Code (26 U.S.C. 4975(c)(1)): The Best Interest Contract Exemption (BIC Exemption) (81 FR 21002) and the Class Exemption for Principal Transactions in Certain Assets Between Investment Advice Fiduciaries and Employee Benefit Plans and IRAs (Principal Transactions Exemption) (81 FR 21089), as well as amendments to previously granted exemptions (81 FR 21139, 81 FR 21147, and 81 FR 21208). Among other conditions, the PTEs are generally conditioned on adherence to certain Impartial Conduct Standards: providing advice in retirement investors’ best interest; charging no more than reasonable compensation; and avoiding misleading statements (Impartial Conduct Standards).

The Fiduciary Rule and PTEs had an original applicability date of April 10, 2017. By Memorandum dated February 3, 2017, the President directed the Department to prepare an updated analysis of the likely impact of the Fiduciary Rule on access to retirement information and financial advice. The President’s Memorandum was published in the **Federal Register** on February 7, 2017. 82 FR 9675 (Feb. 7, 2017).

On March 2, 2017, the Department published a document proposing a 60-day delay of the applicability date of the Rule and PTEs. It also sought public comments on the questions raised in the Presidential Memorandum, and generally on questions of law and policy concerning the Fiduciary Rule and PTEs.¹

On April 7, 2017, the Department promulgated a final rule extending the applicability date of the Fiduciary Rule by 60 days from April 10, 2017, to June 9, 2017.² It also extended from April 10 to June 9, the applicability dates of the BIC Exemption and Principal Transactions Exemption, and required investment advice fiduciaries relying on these exemptions to adhere only to the Impartial Conduct Standards as conditions of those exemptions during a transition period from June 9, 2017,

¹ 82 FR 12319.

² 82 FR 16902.

through January 1, 2018.³ In this manner, the Department established a phased implementation period from June 9, 2017, until January 1, 2018, during which time the Fiduciary Rule will be applicable, and these new exemptions will be available subject to the Impartial Conduct Standards only. The final rule further delayed the applicability of amendments to an existing exemption, Prohibited Transaction Exemption 84–24, until January 1, 2018, other than the Impartial Conduct Standards, which will become applicable on June 9, 2017. Finally, the final rule extended for 60 days, until June 9, 2017, the applicability dates of amendments to other previously granted exemptions.⁴

On May 22, 2017, the Department issued a temporary enforcement policy covering the transition period between June 9, 2017, and January 1, 2018, during which the Department will not pursue claims against investment advice fiduciaries who are working diligently and in good faith to comply with their fiduciary duties and to meet the conditions of the PTEs, or otherwise treat those investment advice fiduciaries as being in violation of their fiduciary duties and not compliant with the PTEs.⁵ The Treasury Department and IRS confirmed a similar enforcement policy covering excise taxes and related reporting obligations with respect to transactions covered by the Department's enforcement policy.⁶ The Department also published on May 22 a set of FAQs to provide additional information on the transition period from June 9, 2017, to January 1, 2018.⁷ The Department noted in both the temporary enforcement policy and FAQs that it intended to issue a Request for Information (RFI) for additional public input on specific ideas for possible new exemptions or regulatory changes based on recent public comments and market developments.

Request for Information

The Department is in the process of reviewing and analyzing comments received in response to its March 2, 2017, request for comments on issues raised in the Presidential Memorandum. While the Department conducts its ongoing review, it is also interested in receiving additional input from the

public about possible additional exemption approaches or changes to the Fiduciary Rule, as well as regarding the advisability of extending the January 1, 2018, applicability date of certain provisions in the Best Interest Contract Exemption, the Class Exemption for Principal Transactions in Certain Assets Between Investment Advice Fiduciaries and Employee Benefit Plans and IRAs, and Prohibited Transaction Exemption 84–24.

Public input on the Fiduciary Duty Rule and PTEs has suggested that it may be possible in some instances to build upon recent innovations in the financial services industry to create new and more streamlined exemptions and compliance mechanisms. For example, one recent innovation is the possible development of mutual fund “clean shares.”⁸ Many firms appear to be considering the use of such “clean shares” as a long-term solution to the problem of mitigating conflicts of interest with respect to mutual funds. Commenters noted, however, that funds will need more time to develop clean shares than contemplated by the current January 1, 2018, deadlines.

Commenters also described innovations in other parts of the retirement investment industry, such as insurance companies' potential development of fee-based annuities in response to the Fiduciary Rule. Firms are also developing new technology, and advisory and data services to help Financial Institutions satisfy the supervisory requirements of the PTEs. The Department welcomes information on these developments and their relevance to the rule, the PTEs' terms and compliance timelines.

The Department is particularly interested in public input on whether it would be appropriate to adopt an additional more streamlined exemption or other rule change for advisers committed to taking new approaches like those outlined above based on the potential for reducing conflicts of interest and increasing transparency. If commenters believe more time would be necessary to build the necessary distribution and compliance structures for such innovations, the Department is interested in information related to the amount of time expected to be required.

And, the Department seeks comment generally on a delay in the January 1, 2018, applicability date of the

provisions in the BIC Exemption, Principal Transactions Exemption and amendments to PTE 84–24 while it evaluates the rule generally and the responses to issues identified in this Request for Information.

Potential Delay of January 1, 2018 Applicability Date

1. Would a delay in the January 1, 2018, applicability date of the provisions in the BIC Exemption, Principal Transactions Exemption and amendments to PTE 84–24 reduce burdens on financial services providers and benefit retirement investors by allowing for more efficient implementation responsive to recent market developments? Would such a delay carry any risk? Would a delay otherwise be advantageous to advisers or investors? What costs and benefits would be associated with such a delay?

General Questions

2. What has the regulated community done to comply with the Rule and PTEs to date, particularly including the period since the June 9, 2017, applicability date? Are there market innovations that the Department should be aware of beyond those discussed herein that should be considered in making changes to the Rule?

3. Do the Rule and PTEs appropriately balance the interests of consumers in receiving broad-based investment advice while protecting them from conflicts of interest? Do they effectively allow Advisers to provide a wide range of products that can meet each investor's particular needs?

4. During the transition period from June 9, 2017, through January 1, 2018, Financial Institutions and Advisers who wish to utilize the BIC Exemption must adhere to the Impartial Conduct Standards only. Most of the questions in this RFI are intended to solicit comments on the additional exemption conditions that are currently scheduled to become applicable on January 1, 2018, such as the contract requirement for IRAs. To what extent do the incremental costs of the additional exemption conditions exceed the associated benefits and what are those costs and benefits? Are there better alternative approaches? What are the additional costs and benefits associated with such alternative approaches?

Contract Requirement in BIC and Principal Transaction Exemptions

The contract requirement in the BIC Exemption and Principal Transactions Exemption and resulting exposure to litigation creates an added motivation for Financial Institutions and Advisers

³ *Id.*

⁴ *Id.*

⁵ Available at <https://www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/field-assistance-bulletins/2017-02>.

⁶ *Id.*

⁷ Available at <https://www.dol.gov/sites/default/files/ebsa/about-ebsa/our-activities/resource-center/faqs/coi-transition-period.pdf>.

⁸ As described in a 2017 SEC staff interpretive letter, clean shares are a class of shares of a mutual fund without any front-end load, deferred sales charge, or other asset-based fee for sales or distributions. See Capital Group, SEC Staff Letter (Jan. 11, 2017), www.sec.gov/divisions/investment/noaction/2017/capital-group-011117-22d.htm.

to oversee and adhere to basic fiduciary standards, and provides that IRA owners have an additional means to enforce those protections. Throughout the fiduciary rulemaking, however, commenters have been divided on the contract requirement, with many expressing concern about potential negative implications for investor costs and access to advice. As noted above, the Department is interested in the possibility of regulatory changes that could alter or eliminate contractual and warranty requirements.

5. What is the likely impact on Advisers' and firms' compliance incentives if the Department eliminated or substantially altered the contract requirement for IRAs? What should be changed? Does compliance with the Impartial Conduct Standards need to be otherwise incentivized in the absence of the contract requirement and, if so, how?

6. What is the likely impact on Advisers' and firms' compliance incentives if the Department eliminated or substantially altered the warranty requirements? What should be changed? Does compliance with the Impartial Conduct Standards need to be otherwise incentivized in the absence of the warranty requirement and, if so, how?

Alternative Streamlined Exemption

As noted above, the Department is also interested in receiving additional input from the public on possible additional and more streamlined exemption approaches that would better address marketplace innovations that may mitigate or even eliminate some kinds of potential advisory conflicts otherwise associated with recommendations of affected financial products innovations.

7. Would mutual fund clean shares allow distributing Financial Institutions to develop policies and procedures that avoid compensation incentives to recommend one mutual fund over another? If not, why? What legal or practical impediments do Financial Institutions face in adding clean shares to their product offerings? How long is it anticipated to take for mutual fund providers to develop clean shares and for distributing Financial Institutions to offer them, including the time required to develop policies and procedures that take clean shares into account? What are the costs associated with developing and distributing clean shares? Have Financial Institutions encountered any operational difficulties with respect to the distribution of clean shares to the extent they are available? Do commenters anticipate that some mutual fund providers will proceed

with T-share offerings instead of, or in addition to, clean shares? If so, why?

8. How would advisers be compensated for selling fee-based annuities? Would all of the compensation come directly from the customer or would there also be payments from the insurance company? What regulatory filings are necessary for such annuities? Would payments vary depending on the characteristics of the annuity? How long is it anticipated to take for an insurance company to develop and offer a fee-based annuity? How would payments be structured? Would fee-based annuities differ from commission-based annuities in any way other than the compensation structure? How would the fees charged on these products compare to the fees charged on existing annuity products? Are there any other recent developments in the design, marketing, or distribution of annuities that could facilitate compliance with the Impartial Conduct Standards?

9. Clean shares, T-shares, and fee-based annuities are all examples of market innovations that may mitigate or even eliminate some kinds of potential advisory conflicts otherwise associated with recommendations of affected financial products. These innovations might also increase transparency of advisory and other fees to retirement investors. Are there other innovations that hold similar potential to mitigate conflicts and increase transparency for consumers? Do these or other innovations create an opportunity for a more streamlined exemption? To what extent would the innovations address the same conflicts of interest as the Department's original rulemaking?

10. Could the Department base a streamlined exemption on a model set of policies and procedures, including policies and procedures suggested by firms to the Department? Are there ways to structure such a streamlined exemption that would encourage firms to provide input regarding the design of such a model set of policies and procedures? How likely would individual firms be to submit model policies and procedures suggestions to the Department? How could the Department ensure compliance with approved model policies and procedures?

Incorporation of Securities Regulation of Fiduciary Investment Advice

11. If the Securities and Exchange Commission or other regulators were to adopt updated standards of conduct applicable to the provision of investment advice to retail investors, could a streamlined exemption or other

change be developed for advisers that comply with or are subject to those standards? To what extent does the existing regulatory regime for IRAs by the Securities and Exchange Commission, self-regulatory bodies (SROs) or other regulators provide consumer protections that could be incorporated into the Department's exemptions or that could serve as a basis for additional relief from the prohibited transaction rules?

Principal Transactions

The Principal Transaction Exemption provides relief only for certain investments (certain debt securities, CDs and unit investment trusts) to be sold by Advisers and Financial Institutions to plans and IRAs in principal transactions and riskless principal transactions, while the BIC Exemption provides additional relief for parties to engage in riskless principal transactions without any restrictions on the types of investments involved.

12. Are there ways in which the Principal Transactions Exemption could be revised or expanded to better serve investor interests and provide market flexibility? If so, how?

Disclosure Requirements

13. Are there ways to simplify the BIC Exemption disclosures or to focus the investor's attention on a few key issues, subject to more complete disclosure upon request? For example, would it be helpful for the Department to develop a simple up-front model disclosure that alerts the retirement investor to the fiduciary nature of the relationship, compensation structure, and potential sources of conflicts of interest, and invites the investor to obtain additional information from a designated source at the firm? The Department would welcome the submission of any model disclosures that could serve this purpose.

Contributions to Plans or IRAs

14. Should recommendations to make or increase contributions to a plan or IRA be expressly excluded from the definition of investment advice? Should there be an amendment to the Rule or streamlined exemption devoted to communications regarding contributions? If so, what conditions should apply to such an amendment or exemption?

Bank Deposits and Similar Investments

Some commenters have raised questions about the compliance burden under the Rule and PTEs on small community banks that currently do not exercise any fiduciary functions for

customers when their employees discuss opening IRAs or investing their IRAs in bank deposit products such as CDs. Some have also raised questions about the need for a special rule for cash sweep services. Still others have said that health savings accounts (HSAs) merit a special exclusion or streamlined exemption because they tend to be invested in shorter-term deposit products to pay qualifying health expenses.

15. Should there be an amendment to the Rule or streamlined exemption for particular classes of investment transactions involving bank deposit products and HSAs? If so, what conditions should apply, and should the conditions differ from the BIC Exemption?

Grandfathering

Section VII of the BIC Exemption provides a grandfathering provision to facilitate ongoing advice with respect to investments that predated the Rule, and to enable advisers to continue to receive compensation for those investments. Some commenters thought this provision could be expanded in ways that would minimize potential disruptions associated with the transition to a fiduciary standard and facilitate ongoing advice for the benefit of investors.

16. To what extent are firms and advisers relying on the existing grandfather provision? How has the provision affected the availability of advice to investors? Are there changes to the provision that would enhance its ability to minimize undue disruption and facilitate valuable advice?

PTE 84-24

17. If the Department provided an exemption for insurance intermediaries to serve as Financial Institutions under the BIC Exemption, would this facilitate advice regarding all types of annuities? Would it facilitate advice to expand the scope of PTE 84-24 to cover all types of annuities after the end of the transition period on January 1, 2018? What are the relative advantages and disadvantages of these two exemption approaches (*i.e.*, expanding the definition of Financial Institution or expanding the types of annuities covered under PTE 84-24)? To what extent would the ongoing availability of PTE 84-24 for specified annuity products, such as fixed indexed annuities, give these products a competitive advantage vis-à-vis other products covered only by the BIC Exemption, such as mutual fund shares?

Communications With Independent Fiduciaries With Financial Expertise

The Fiduciary Rule contains a specific exclusion for communications with independent fiduciaries with financial expertise. Specifically, a party's communications with an independent fiduciary of a plan or IRA in an arm's length transaction are excepted from the Rule if certain disclosure requirements are met and the party reasonably believes that the independent fiduciary of the plan or IRA is a bank, insurance carrier, or registered broker-dealer or investment adviser, or any other independent fiduciary who manages or controls at least \$50 million. Some commenters have requested that the Department expand the scope of the exclusion.

18. To the extent changes would be helpful, what are the changes and what are the issues best addressed by changes to the Rule or by providing additional relief through a prohibited transaction exemption?

Signed at Washington, DC, this 29th day of June, 2017.

Timothy D. Hauser,

Deputy Assistant Secretary for Program Operations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2017-14101 Filed 7-5-17; 8:45 am]

BILLING CODE 4510-29-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-SFUND-1986-0005; FRL-9964-01-Region 1]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Shpack Landfill Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of intent.

SUMMARY: The Environmental Protection Agency (EPA) Region 1 is issuing a Notice of Intent to Delete the Shpack Landfill Superfund Site (Site) located on Union Rd. and Peckham Streets in Norton and Attleboro, Massachusetts, from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and

the State of Massachusetts, through the Massachusetts Department of Environmental Protection (MassDEP), have determined that all appropriate response actions under CERCLA, other than operation, maintenance, monitoring, and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: Comments must be received by August 7, 2017.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-1986-0005, by mail or email to Elaine Stanley, Remedial Project Manager at EPA—Region 1, 5 Post Office Square, Suite 100, Mail Code OSRR07-4, Boston, MA 02109-3912, email: Stanley.ElaineT@epa.gov or Sarah White, Community Involvement Coordinator at EPA—Region 1, 5 Post Office Square, Suite 100, Mail Code ORA01-1, Boston, MA 02109-3912, email: White.Sarah@epa.gov. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Elaine Stanley, Remedial Project Manager, U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Suite 100, Mail Code OSRR07-4, Boston, MA 02109-3912, phone: 617-918-1332, email: Stanley.ElaineT@epa.gov or Sarah White, Community Involvement Coordinator at EPA—Region 1, 5 Post Office Square, Suite 100, Mail Code ORA01-1, Boston, MA 02109-3912, phone: 617-918-1026, email: White.Sarah@epa.gov.

SUPPLEMENTARY INFORMATION: In the “Rules and Regulations” Section of today’s **Federal Register**, we are publishing a direct final Notice of Deletion of Shpack Landfill Superfund Site without prior Notice of Intent to Delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final Notice of Deletion, and those reasons are incorporated herein. If we receive no adverse comment(s) on this deletion action, we will not take further action on this Notice of Intent to Delete. If we receive adverse comment(s), we will withdraw the direct final Notice of Deletion, and it will not take effect. We will, as appropriate, address all public comments in a subsequent final Notice of Deletion based on this Notice of Intent to Delete. We will not institute a second comment period on this Notice

of Intent to Delete. Any parties interested in commenting must do so at this time.

For additional information, see the direct final Notice of Deletion which is located in the *Rules* section of this **Federal Register**.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

For the reasons set out in this document, 40 CFR part 300 is proposed to be amended as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

■ 1. The authority citation for Part 300 is revised to read as follows:

Authority: 33 U.S.C. 1321(d); 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B to Part 300—[Amended]

■ 2. Table 1 of Appendix B to part 300 is amended by removing “MA”, “Shpack Landfill”, “Norton/Attleboro”.

Dated: May 9, 2017.

Deborah A. Szaro,

Acting Regional Administrator, Region 1.

[FR Doc. 2017–14113 Filed 7–5–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 32 and 65

[WC Docket No. 14–130, CC Docket No. 80–286; Report No. 3078]

Petition for Reconsideration of Action in Rulemaking Proceeding

AGENCY: Federal Communications Commission.

ACTION: Petition for Reconsideration.

SUMMARY: A Petition for Reconsideration (Petition) has been filed in the Commission’s proceeding by Paul Glist, on behalf of NCTA—The Internet & Television Association.

DATES: Oppositions to the Petition must be filed on or before July 21, 2017. Replies to an opposition must be filed on or before July 31, 2017.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Robin Cohn, Pricing Policy Division, Wireline Competition Bureau, at (202) 418–2747 or email: robin.cohn@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s document, Report No. 3078, released June 26, 2017. The full text of the Petition is available for viewing and copying at the FCC Reference Information Center, 445 12th Street SW., Room CY–A257, Washington, DC 20554. It also may be accessed online via the Commission’s Electronic Comment Filing System at: <https://www.fcc.gov/ecfs/filing/106050781930666>. The Commission will not send a Congressional Review Act (CRA) submission to Congress or the Government Accountability Office Pursuant to the CRA, 5 U.S.C. because no rules are being adopted by the Commission.

Subject: In the Matter of Comprehensive Review of the Part 32 Uniform System of Accounts; Jurisdictional Separations and Referral to the Federal-State Joint Board, FCC 17–15, published at 82 FR 20833, May 4, 2017, in WC Docket No. 14–130 and CC Docket No. 80–286. This document is being published pursuant to 47 CFR 1.429(e). *See also* 47 CFR 1.4(b)(1) and 1.429(f), (g).

Number of Petitions Filed: 1.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

[FR Doc. 2017–14161 Filed 7–5–17; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 82, No. 128

Thursday, July 6, 2017

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 30, 2017.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (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, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by August 7, 2017 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: OIRA_Submission@OMB.EOP.GOV or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs

potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: National Veterinary Accreditation Program Application Form.

OMB Control Number: 0579–0297.

Summary of Collection: The Animal Health Protection Act, (APHA) of 2002 is the primary Federal law governing the protection of animal health. The APHA is contained in Title X, Subtitle E, Sections 10401–18 of Public Law 107–171, May 13, 2002, the Farm Security and Rural Investment Act of 2002. The law gives the Secretary of Agriculture broad authority to detect, control, or eradicate pests or diseases of livestock or poultry. The Animal and Plant Health Inspection Service (APHIS) is the agency charged with carrying out this disease prevention mission. For APHIS to conduct all its disease prevention tasks, it utilizes APHIS-certified private veterinarians to work cooperatively with Federal and State animal health authorities on the Agency's behalf. Their certification is obtained through the APHIS National Veterinary Accreditation Program (NVAP) which has an application and renewal process.

Need and Use of the Information: APHIS will use VS form 1–36A, National Veterinary Accreditation Program Application Form to collect information to certify private practitioners to work cooperatively with Federal and State animal health authorities as accredited private veterinarians on various approaches for disease prevention and proactive disease surveillance. Applicants may appeal denial, revocation, or suspension of accredited status. The written appeal is prepared in letter format and signed by the denied veterinarian. If information from accredited veterinarians was collected less frequently or not collected, APHIS would lose access to professional and demographic data for more than 100,000 cooperators, and APHIS coverage of veterinary, plant, and agricultural activities would be proportionately reduced.

Description of Respondents: Business or other for-profit.

Number of Respondents: 23,800.
Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 11,901.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2017–14169 Filed 7–5–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Eastern Region Recreation Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Eastern Region Recreation Resource Advisory Committee (Recreation RAC) is scheduled to meet via conference call. The Recreation RAC is authorized pursuant with the Federal Lands Recreation Enhancement Act (the Act) and the Federal Advisory Committee Act (FACA). Information for the Recreation RAC may be found by visiting the Web site at: <http://www.fs.usda.gov/main/r9/recreation/racs>.

DATES: The meeting will be held on Thursday, September 28, 2017, from 1:00 p.m. to 3:00 p.m. Eastern Standard Time.

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

ADDRESSES: The meeting will be held via teleconference. Participants who would like to attend by teleconference should contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

FOR FURTHER INFORMATION CONTACT: Joanna Wilson, Eastern Region

Recreation RAC Coordinator, by phone at 541-860-8048, or by email at jwilson08@fs.fed.us.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to further a discussion on regional recreation fee pricing consistency. The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less at the Friday portion of the meeting starting at 2:00 p.m. Individuals wishing to make an oral statement should request in writing by September 25, 2017, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the Recreation RAC may file written statements with the Committee's staff before or after the meeting. Written comments and time requests to make oral comments must be sent to Joanna Wilson, Eastern Region Recreation RAC Coordinator, 855 South Skylake Drive, Woodland Hills, Utah 84653; or by email to jwilson08@fs.fed.us.

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

Dated: June 12, 2017.

Glenn Casamassa,

Associate Deputy Chief, National Forest System.

[FR Doc. 2017-14134 Filed 7-5-17; 8:45 am]

BILLING CODE 3411-15-P

DEPARTMENT OF AGRICULTURE

Forest Service

Craig and Thorne Bay Ranger Districts, Tongass National Forest, Alaska; Prince of Wales Landscape Level Analysis Project Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Corrected Notice of Intent to prepare an Environmental Impact Statement.

SUMMARY: The U.S. Department of Agriculture, Forest Service will prepare an Environmental Impact Statement (EIS) to propose a variety of projects for multiple resource benefits at a landscape level to implement over the course of 10 to 15 years. Both the Craig and Thorne Bay Ranger Districts encompass Prince of Wales Island (POW) and surrounding islands, which serves as the project area for the Prince of Wales Landscape Level Analysis (POW LLA) Project. Our intention is that this project will be a highly collaborative process involving the public at all stages throughout the development of this analysis. A Notice of Intent (NOI) for this project was first published in the **Federal Register** (81 FR 86320) on November 30, 2016. This Corrected NOI has been prepared to provide a more detailed description of the proposed action developed using comments from the public and stakeholders.

DATES: Comments concerning the scope of the analysis must be received by August 7, 2017. The publication date of this Corrected NOI in the **Federal Register** is the exclusive means for calculating the comment period for this scoping opportunity. If the comment period ends on a Saturday, Sunday, or Federal holiday, comments will be accepted until the end of the next Federal working day (11:59 p.m.). The POW LLA Project is an activity implementing the forest plan and is subject to 36 CFR 218, Subparts A and B. Only individuals or entities who submit timely and specific written comments about this proposed project or activity during this or another public comment period established by the Responsible Official will be eligible to file an objection. Comments submitted previously will be considered in the analysis. The Draft Environmental Impact Statement is expected in January of 2018 and the Final Environmental Impact Statement is expected in July of 2018.

ADDRESSES: Send written comments to Thorne Bay Ranger District, at P.O. Box 19001, Thorne Bay, AK 99919. Comments may also be submitted electronically at <https://cara.ecosystem-management.org/Public/CommentInput?project=50337>, or via facsimile to (907) 828-3309.

FOR FURTHER INFORMATION CONTACT: Matthew Anderson, District Ranger, Craig and Thorne Bay Ranger Districts, at 504 9th Street, Craig, AK 99921, by telephone at (907) 826-3271; or Delilah Brigham, Project Leader, at 1312 Federal Way, Thorne Bay, AK 99919, by telephone at (907) 828-3232.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purpose of the POW LLA Project is to improve forest ecosystem health on Craig and Thorne Bay Ranger Districts, help support community resiliency, and provide economic development through an integrated approach to meet multiple resource objectives.

There is a need to provide a sustainable level of forest products to contribute to the economic viability of Prince of Wales communities. There is also a need to help maintain the expertise and infrastructure of the timber industry to integrate timber harvest with restoration opportunities in a sustainable manner that meets multiple economic, forest, and watershed objectives.

There is a need for young-growth forests to produce future desired resource values, products, services, and forest health conditions that sustain the diversity and productivity of forested ecosystems. Timber stand establishment and timber stand improvement activities (such as planting and precommercial thinning) that enhance early seral forests are necessary to achieve this.

There is a need for restoration activities in some watersheds to reestablish self-sustaining habitats that promote viable fish, wildlife, and plant populations. This would contribute to subsistence values and the continued traditional and cultural uses by residents of Prince of Wales and surrounding islands.

There is a need to maintain existing recreation opportunities on POW and surrounding islands for residents, as well as to expand opportunities for growth in the recreation and tourism business sector. A sustainable recreation program in terms of operations and maintenance is needed in order to maintain infrastructure to an acceptable level.

There is a need to support improved telecommunications in local communities.

Proposed Action

The proposed action was developed with input from an independently-formed, broadly-based collaborative group as well as from public comments. During initial scoping and through this collaborative process, the Forest Service received suggestions for a wide array of site-specific projects and management

strategies. The projects and management strategies fell within four broad categories: Vegetation management, watershed improvement and restoration, sustainable recreation management, and associated actions. For both the proposed action and other action alternatives, the Forest Service is developing "Activity Cards" that present potential activities being considered within the project area, though without specific locations. These are meant to describe major aspects of an activity and provide initial guidelines on how it would be implemented, and can be viewed on the project Web page (see *Scoping Process* section below for web address). Each ground-disturbing activity discussed below in this proposed action, and following in potential alternatives, has an activity card corresponding to that activity, whether site-specific or not. Activity cards should be reviewed for more information on land management activities.

Vegetation Management

Vegetation management activities include: Old-growth commercial harvest, young-growth commercial harvest, young-growth precommercial thinning treatments, timber stand establishment (e.g., tree seedling planting), and wildlife habitat improvement treatments.

The Forest Service proposes to commercially harvest an average of 25 MMBF (million board feet; volume measurement) of old-growth timber annually from suitable timber lands within the project area during the first 5 years of implementation (years 2019 through 2023), and an average of 15 MMBF of old-growth timber annually during the next five year period (years 2024 through 2028). In year 2029, 10 years after initial implementation, an evaluation of availability of old-growth timber within the project area would occur before additional old-growth harvest levels would be set, to ensure there will be harvestable old-growth timber available for local mills beyond the 15-year timeline of this project.

The Forest Service proposes to commercially harvest from suitable lands, as defined under the 2016 Tongass Land and Resource Management Plan Amendment, an average of 8 MMBF annually of young growth over a five-year period beginning in year 2022 and ending in 2026. In year 2027, the young-growth harvest level would be advanced to an average of 15 MMBF annually through year 2031. Young growth harvested under this proposal would occur in stands that generally have not reached 95 percent of

culmination of mean annual increment. Stands proposed for rotational harvest (even-aged and two-aged management) will, however, have generally reached a level of growth where at least 50 percent of the total volume occurs in trees with a merchantable height suitable to produce two 36-foot logs.

The Forest Service would take into consideration various projects and strategies that were proposed through public input including: Limit old-growth harvest around communities to maintain deer habitat and winter range, prioritize young-growth treatments to promote deer habitat, and maintain existing and create new wildlife travelways and wildlife trees for a variety of wildlife species.

Commercial harvests would utilize various prescriptions and logging systems, and would provide material to local mill operators through large sale, small sale, salvage sale, and microsale programs. Harvested trees would generally be removed without the limbs and tops attached. However, the limbs, tops, and cull material could potentially be utilized as biomass, or other products.

The Forest Service proposes to precommercially thin approximately 4,500 acres of young-growth stands annually utilizing various prescriptions to achieve desired conditions for the stands. The Forest Service would take into consideration prioritizing young-growth treatments in high-value deer winter habitat (south facing low-elevation stands). Slash treatments could occur in stands that are thinned for wildlife habitat improvement objectives.

The Forest Service may interplant tree seedlings within selected harvest units to enhance species composition if post-harvest evaluation determines that artificial reforestation is beneficial. Seed may be sourced by cone collection, for the purposes of tree seedling generation. The Forest Service would consider establishing or encouraging native plant nurseries that can produce seedlings and other native plant materials for reforestation, reclamation, and habitat improvement projects.

Watershed Improvement and Restoration Treatments

Proposed watershed improvement and restoration activities on National Forest System land within the project area include: Fish habitat restoration, fish habitat improvements, aquatic organism passage and fish habitat connectivity, karst systems improvement, and invasive plant management.

Fish Habitat Restoration: The Forest Service proposes to utilize various treatment options to restore hydrologic function in fish streams or lakes that may include the following: 108 Creek, 142F Creek, Alder Creek, Big Salt Lake, Buster Creek, Camp Creek, Chuck Creek, Coffman Creek, Deer Creek, Dog (Chum) Creek, Dolores Creek, Eagle Creek, Flicker Creek, Hatchery Creek, Hydaburg River, Inlet Creek, Klawock Lake, Logjam Creek, Luck Lake, Maybeso Creek, Port Saint Nicholas Creek, Ratz Creek, Red Bay Creek, Reynolds Creek, Rio Beaver, Sal Creek, Salt Chuck, Saltery Creek, Shaheen Creek, Slide Creek, Slow Creek, Snug Creek, Thorne River, Turn Creek, and Yatuk Creek, as well as complete restoration treatments on Harris River, Stoney Creek, and Twelvemile Arm. Other streams that have not been listed may be considered for restoration if the Forest Service determines that the fish habitat and or hydrological condition have degraded due to past management practices. The Forest Service would consider opportunities for interpretive signs within restored watersheds for public education.

Fisheries Habitat Improvement: The Forest Service proposes to enact various methods to improve fish habitat in the following lakes and streams: Control Creek/Balls Lake, Devil Lake, Eek Lake, Hessa Lake, Hunter Lake, Karta River, Klekas Lake, Little Klekas Lake, Manhattan Creek, Nichols Lake, Rio Roberts, Sarkar Creek, and Welcome Lake.

Aquatic Organism Passage and Fish Habitat Connectivity: Stream-crossings within the project area that do not allow for fish and aquatic organism passage at all flows, referred to as "red pipes," would be replaced with appropriate structures or removed with other road restoration treatments.

Karst Systems Improvement: Karst systems that have been impacted from past management would be improved by removing blockages to restore natural water flows into karst features. Young-growth stands adjacent to impaired karst systems may be thinned to increase precipitation throughfall to increase spring flow and to flush accumulated sediment.

Invasive Plant Management: The Forest Service proposes to utilize manual and mechanical treatments, as part of an integrated pest management approach, to eradicate or control existing and new infestations of non-native, invasive plants.

Sustainable Recreation Management

Proposed recreation activities on National Forest System lands include

maintenance of all existing recreation facilities, as well as improvements to some existing facilities and construction of new facilities. Proposals received through public comment included cabins and three-sided shelters; a variety of trails; campsites and campgrounds; access and enhancements for kayaking, canoeing, and boating; creating interpretive sites; creating winter recreation opportunities; day use sites; and further development of existing recreation areas. Outhouse facilities may be necessary to accompany certain proposed recreation sites. A wide array of locations were suggested; the proposed action is not limited to but will consider the following locations associated with these activities.

Three-sided shelters and/or cabins were proposed at or near Canoe Point, the Palisades, Fern Point, Point Gertrudis, Eagle Island in Sea Otter Sound, near Hydaburg, near South POW Wilderness, Mable Bay, Jackson Island, Hunter's Bay, the log transfer facility in Port Refugio, Sal Creek, Cape Ulitka, Little Vera Beach, Arena Cove, and in an alpine area for winter recreation.

Trails proposed included walking, hiking, bicycling, mountain biking, for off-highway vehicle use, and interpretive, and may be new trails or improvements to existing ones. The locations suggested are Luck Creek; Honker Divide Trail; Harris River trail system including connecting Gandláay Háanaa Creek and Harris River interpretive sites, and a hut-to-hut trail system; Deweyville; Rio Beaver (also known as 8 1/2 mile Thorne Bay Road); Rio Roberts Fish Pass; Sunnahae; Sarkar canoe route and portages; Suemez Island; "Rabbit Ears—ORV Trail" near Coffman Cove; from Roller Bay to Cape Ulitka; from Port San Antonio to Little Vera Beach; from Port Refugio to Arena Cove; through old-growth forests; and along roads that can be converted to trails.

Campsites were suggested around Luck Lake, and a campground with RV parking was suggested for near the community of Hydaburg. The comments to develop sea kayak routes also included developing access points for canoes and kayaks at both fresh and saltwater locations. Comments for new boat launches and/or docks to enhance saltwater access included Calder Bay, Port Refugio, and Port San Antonio. There was a suggestion to improve signage and maintenance of the Salt Chuck Mine site, and interest in creating an archaeology kiosk and interpretive site. Winter recreation opportunities with access to the snow line were suggested for Upper Steelhead, One

Duck, Barron Mountain, Baird Peak, Sunnahae, West Ridge near Polk Inlet, ridge lines east of the North Thorne drainage, and near Control Lake. A picnic day-use area was proposed for near Neck Lake.

Existing recreation areas were proposed for further development, improvement, and/or maintenance, as follows. The El Capitan area could be developed further to include a cabin, day use area, and campground, and improvements could be made to the dock, boat ramp, and at the marine transfer facility or "spit" area. Ratz Harbor area improvements could include a high-water ramp or boat launch, picnic area, primitive camp site, or a three-sided shelter. The Memorial Beach area could be improved with better signage and a loop trail through the old-growth forest to the east. It was requested that the Karta Cabin and trail receive more maintenance. The greater Control Lake area, including Control Lake Cabin, Balls Lake, Eagles Nest Campground, and the Cutthroat Road could be expanded and better connected as a recreational complex.

Finally, to support input from local youth, the Forest Service would entertain proposals to permit a day use area on the island for uses such as paint ball, archery, and other youth activities.

Associated Actions

A number of activities associated with implementing the various proposed management activities would be necessary, in addition to some associated actions which were proposed through public input and comments. Associated actions were divided into two categories: Infrastructure actions and non-infrastructure actions. Infrastructure actions include: Road maintenance and use; management of system and temporary roads, including construction, maintenance, and potentially storage or decommissioning after project implementation (potential maintenance level changes may occur); use and development of new and existing rock pits (for both road needs and personal use); reconstruction and maintenance of marine access facilities and log transfer facilities; and infrastructure to access and establish telecommunication sites. Non-infrastructure actions include: Site preparation, hazard tree removal, wildlife-proof garbage can installation and maintenance, brushing and brush disposal, and viewshed improvement.

Possible Alternatives

Other alternatives will be more fully developed based on public comments received to the original NOI published

November 30, 2016, from public comments received to this Corrected NOI, and from internal Forest Service considerations. For example, alternatives may include decommissioning recreation infrastructure that are expensive to maintain and receive minimal use to match maintenance capacity; a low range of old-growth harvest may be designed to support the local small-mill industry; treatments such as prescribed burning to improve understory for wildlife; an integrated pest management strategy that includes the use of herbicides for treatment of non-native, invasive plants; restrictions on vegetation treatments (logging) north of Forest Road 20 and in the vicinity of Point Baker and Port Protection to preserve watershed, visual, and other values on the north end of POW; and incorporation of actions recommended in the "Interagency Wolf Habitat Management Program" plan for Game Management Unit 2 (https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd537975.pdf). In addition, early youth engagement in this process identified several potential recreation related ideas which may be incorporated into one or all of the action alternatives if possible. A no-action alternative, which represents no change and serves as the baseline for the comparison among the action alternatives, will be analyzed as well. Comments we receive to this Corrected NOI may identify additional alternative components.

Responsible Official

The Responsible Official for the decision on this project is M. Earl Stewart, Forest Supervisor, Tongass National Forest, Federal Building, 648 Mission Street, Ketchikan, Alaska, 99901.

Nature of Decision To Be Made

Given the purpose and need of the project, the Forest Supervisor will review the no action, the proposed action, other alternatives, and the environmental consequences in order to make decisions including the following: (1) Whether to select the proposed action or another alternative; (2) the locations, design, and scheduling of commercial and precommercial timber treatments, restoration activities, habitat improvements, road construction and reconstruction, and improvements to recreation opportunities; (3) mitigation measures and monitoring requirements; and (4) whether there may be a significant restriction of subsistence uses. No Forest Plan Amendments are anticipated with this decision.

Permits or Licenses Required

All necessary permits would be obtained prior to project implementation, and may include the following:

- (1) State of Alaska, Department of Environmental Conservation (DEC), Alaska Pollutant Discharge Elimination System (APDES):
 - General permit for Log Transfer Facilities in Alaska;
 - Review Spill Prevention Control and Countermeasure Plan;
 - Certification of Compliance with Alaska Water Quality Standards (401 Certification) Chapter 20;
 - Storm Water Discharge Permit/National Pollutant Discharge Elimination System review (Section 402 of the Clean Water Act);
 - Solid Waste Disposal Permit;
- (2) U.S. Army Corp of Engineers:
 - Approval of discharge of dredged or fill material into the waters of the United States under Section 404 of the Clean Water Act;
 - Approval of the construction of structures or work in navigable waters of the United States under Section 10 of the Rivers and Harbors Act of 1899;
- (3) State of Alaska, Division of Natural Resources (DNR):
 - Authorization for occupancy and use of tidelands and submerged lands.
- (4) State of Alaska, Department of Fish and Game (ADF&G)
 - Fish Habitat Permit and Concurrence (Title 16)

Scoping Process

This Corrected Notice of Intent initiates a scoping period, which guides additional development of the environmental impact statement. The Forest Service will be seeking information, comments, and assistance from Tribal Governments; Federal, State, and local agencies; and individuals and organizations interested in or affected by the proposed activities. There will also be ample public involvement on Prince of Wales Island, including: public meetings held in various communities, subsistence hearings, information posted in public places and in local publications such as the *Island Post*, and from the Prince of Wales Landscape Assessment Team, a collaborative group independently formed to provide widely based proposals to be considered by the U.S. Forest Service in the POW LLA Project development and analysis process. Project information and updates, meeting notices, and documents will be provided throughout the process on the project Web page at <http://www.fs.usda.gov/goto/tongass/powlla>.

Individuals may also provide comments and sign up for an electronic mailing list at that site.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered; however, anonymous comments will not provide the Agency with the ability to provide the respondent with subsequent environmental documents.

Dated: June 15, 2017.

Cynthia D. West,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2017-14138 Filed 7-5-17; 8:45 am]

BILLING CODE 3411-15-P

DEPARTMENT OF AGRICULTURE

Forest Service

Lassen County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Lassen County Resource Advisory Committee (RAC) will meet in Susanville, CA. The RAC is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the RAC is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the Act. RAC information can be found at the following Web site: <https://www.fs.usda.gov/main/lassen/workingtogether/advisorycommittees>.
DATES: The meeting will be held on August 31, 2017, from 9:00 a.m. to 4:00 p.m.

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

ADDRESSES: The meeting will be held at the Lassen National Forest (NF) Supervisor's Office, Caribour

Conference Room, 2550 Riverside Drive, Susanville, California.

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

FOR FURTHER INFORMATION CONTACT: Matthew Boisseau, RAC Designated Federal Officer, by phone at 530-768-4109 or via email at mboisseau@fs.fed.us.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and recommend project proposals; details at the following Web site: <https://www.fs.usda.gov/main/lassen/workingtogether/advisorycommittees>.

The meeting is open to the public. The agenda will include time for people to make oral statements in support of their projects. Individuals wishing to make an oral statement should request in writing by August 25, 2017, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the RAC may file written statements with the RAC staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Matthew Boisseau, RAC Designated Federal Officer, 2550 Riverside Drive, Susanville, California 96130; by email to mboisseau@fs.fed.us or via facsimile to 530-252-6463.

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

Dated: June 12, 2017.

Glenn Casamassa,

Associate Deputy Chief, National Forest System.

[FR Doc. 2017-14136 Filed 7-5-17; 8:45 am]

BILLING CODE 3411-15-P

DEPARTMENT OF AGRICULTURE**Forest Service****Coconino County Resource Advisory Committee****AGENCY:** Forest Service, USDA.**ACTION:** Notice of meeting.

SUMMARY: The Coconino County Resource Advisory Committee (RAC) will meet in Flagstaff, Arizona. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the Act. RAC information can be found at the following Web site: <https://www.fs.usda.gov/main/pts/specialprojects/racs>.

DATES: The meeting will be held on August 14, 2017, at 9:00 a.m.

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

ADDRESSES: The meeting will be held at the Coconino County Health Department, 2625 North King Street, Flagstaff, Arizona.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Coconino National Forest (NF) Supervisor's Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Brady Smith, RAC Coordinator, by phone at 928-527-3490 or via email at bradysmith@fs.fed.us.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Review the calendar,
2. Review project proposals, and
3. Establish outline of next meeting.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes

or less. Individuals wishing to make an oral statement should request in writing by August 7, 2017, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Brady Smith, RAC Coordinator, Coconino NF Supervisor's Office, 1824 South Thompson Street, Flagstaff, Arizona 86001; or by email to bradysmith@fs.fed.us.

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

Dated: June 15, 2017.

Cynthia D. West,*Acting Associate Deputy Chief, National Forest System.*

[FR Doc. 2017-14133 Filed 7-5-17; 8:45 am]

BILLING CODE 3411-15-P**DEPARTMENT OF AGRICULTURE****Forest Service****Southeast Washington Forest Resource Advisory Committee****AGENCY:** Forest Service, USDA.**ACTION:** Notice of meeting.

SUMMARY: The Southeast Washington Forest Resource Advisory Committee (RAC) will meet in Pomeroy, Washington. The RAC is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the RAC is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the Act.

DATES: The meeting will be held on July 26, 2017, and will begin at 6:00 p.m.

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

ADDRESSES: The meeting will be held at the Pomeroy Ranger District Office, 71 West Main Street, Pomeroy, Washington.

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

FOR FURTHER INFORMATION CONTACT: Monte Fujishin, RAC Designated Federal Officer, by phone at 509-843-4620 or by email at mfujishin@fs.fed.us.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Review of past projects and progress of continuing projects,
2. Discussion and selection of proposed projects,
3. Public Comments.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by July 17, 2017, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the RAC may file written statements with the RAC staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Monte Fujishin, RAC Designated Federal Officer, Pomeroy Ranger District, 71 West Main Street, Pomeroy, Washington 99347; by email to mfujishin@fs.fed.us, or via facsimile to 509-843-4621.

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

Dated: June 12, 2017.

Glenn Casamassa,*Associate Deputy Chief, National Forest System.*

[FR Doc. 2017-14135 Filed 7-5-17; 8:45 am]

BILLING CODE 3411-15-P

DEPARTMENT OF AGRICULTURE**Forest Service****Lassen County Resource Advisory Committee****AGENCY:** Forest Service, USDA.**ACTION:** Notice of meeting.

SUMMARY: The Lassen County Resource Advisory Committee (RAC) will meet in Susanville, CA. The RAC is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the RAC is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the Act. RAC information can be found at the following Web site: <https://www.fs.usda.gov/main/lassen/workingtogether/advisorycommittees>.

DATES: The meeting will be held on September 7, 2017, from 9:00 a.m. to 4:00 p.m.

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

ADDRESSES: The meeting will be held as the Lassen National Forest (NF) Supervisor's Office, Caribour Conference Room, 2550 Riverside Drive, Susanville, California.

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

FOR FURTHER INFORMATION CONTACT: Matthew Boisseau, RAC Designated Federal Officer, by phone at 530-768-4109 or via email at mboisseau@fs.fed.us.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and recommend project proposals; details at the following Web site: <https://www.fs.usda.gov/main/lassen/workingtogether/advisorycommittees>.

The meeting is open to the public. The agenda will include time for people

to make oral statements in support of their projects. Individuals wishing to make an oral statement should request in writing by September 1, 2017, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the RAC may file written statements with the RAC staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Matthew Boisseau, RAC Designated Federal Officer, 2550 Riverside Drive, Susanville, California 96130; by email to mboisseau@fs.fed.us or via facsimile to 530-252-6463.

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

Dated: June 12, 2017.

Glenn Casamassa,

Associate Deputy Chief, National Forest System.

[FR Doc. 2017-14137 Filed 7-5-17; 8:45 am]

BILLING CODE 3411-15-P

DEPARTMENT OF AGRICULTURE**Forest Service****Alabama Resource Advisory Committee****AGENCY:** Forest Service, USDA.**ACTION:** Notice of meeting.

SUMMARY: The Alabama Resource Advisory Committee (RAC) will meet in Montgomery, Alabama. The RAC is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the RAC is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the Act.

DATES: The meeting will be held on July 31, 2017, from 8:30 a.m. to 4:30 p.m.

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

ADDRESSES: The meeting will be held at the National Forest of Alabama's Supervisor's Office, Downstairs

Conference Room, 2946 Chestnut Street, Montgomery, Alabama. For participants that would like to attend via conference call, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

FOR FURTHER INFORMATION CONTACT: Lisa Kamnikar, RAC Coordinator, by phone at 334-832-4470 ext. 114 or via email at lkamnikar@fs.fed.us; or Tammy Freeman Brown, Designated Federal Officer, by phone 334-832-4470 ext. 144 or via email at tfreemanbrown@fs.fed.us.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and recommend project proposals.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by close-of business, July 21, 2017, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the RAC may file written statements with the RAC staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Lisa Kamnikar, Alabama RAC Coordinator, 2946 Chestnut Street, Montgomery, Alabama 36107.; by email to lkamnikar@fs.fed.us, or via facsimile to 334-241-8111.

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

Dated: June 12, 2017.

Glenn Casamassa,

Associate Deputy Chief, National Forest System.

[FR Doc. 2017-14131 Filed 7-5-17; 8:45 am]

BILLING CODE 3411-15-P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Tennessee Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Tennessee Advisory Committee will hold a meeting on Monday, July 24, 2017, for hearing testimony regarding the issue of Civil Asset Forfeiture in Tennessee.

DATES: The meeting will be held on Monday, July 24, 2017 09:30 a.m.

ADDRESSES: Nashville Public Library (NPL), 615 Church Street, Nashville, Tennessee 37219.

FOR ADDITIONAL INFORMATION CONTACT: Jeff Hinton, DFO, at jhinton@usccr.gov or (404) 562-7006

SUPPLEMENTARY INFORMATION: This meeting is open to the public, and will take place at the Nashville Public Library (NPL), 615 Church Street, Nashville, Tennessee 37219. In addition, members of the public may submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Southern Regional Office, U.S. Commission on Civil Rights, 61 Forsyth St., Suite 16T126, Atlanta, Georgia 30303. They may also be faxed to the Commission at (404) 562-7005, or emailed to Jeff Hinton at jhinton@usccr.gov. Persons who desire additional information may contact the USCCR, Southern Regional Office at (404) 562-7000.

Records generated from this meeting may be inspected and reproduced at the Southern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via www.facadatabase.gov under the Commission on Civil Rights, Tennessee Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's Web site, <http://www.usccr.gov>, or may contact the

Southern Regional Office at the above email or street address.

AGENDA

9:30 a.m. Introductions
 9:45-10:55 a.m. Panel 1 Law Enforcement Officials
 11:00-12:05 a.m. Panel 2 Legislative panel
 12:10-1:15 p.m. Panel 3 National/State Organizations
 1:15 p.m.-2:00 p.m. Lunch Break
 2:00-3:05 p.m. Panel 4 Tennessee Practitioners and Academics
 3:10-4:05 p.m. Panel 5 Advocacy Organizations
 4:10-4:30 p.m. Public Comment and Community Testimonials
 4:30 p.m. Adjourn

Dated: June 29, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017-14093 Filed 7-5-17; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Delaware Advisory Committee

AGENCY: 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 planning meeting of the Delaware Advisory Committee to the Commission will convene by conference call, on Monday, July 17 at 10:00 a.m. (EDT). The purpose of the meeting is to make preparations for a briefing meeting on Policing and Implicit Bias in Delaware.

DATES: Monday, July 17, 2017, at 10:00 a.m. (EDT).

Public Call-In Information:
 Conference call number: 1-888-737-3705 and conference call ID: 5272563.

FOR FURTHER INFORMATION CONTACT: Ivy L. Davis, at ero@usccr.gov or by phone at 202-376-7533.

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call number: 1-888-737-3705 and conference call ID: 5272563. Please be advised that before placing them into the conference call, the conference call operator may ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). 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 herein.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1-888-364-3109 and providing the operator with the toll-free conference call number: 1-888-737-3705 and conference call ID: 5272563.

Members of the public are invited to submit written comments; the comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, or emailed to EvelynBohor@usccr.gov. Persons who desire additional information may contact the Eastern Regional Office at (202) 376-7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at <http://facadatabase.gov/committee/meetings.aspx?cid=240>; click the "Meeting Details" and "Documents" links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, www.usccr.gov, or to contact the Eastern Regional Office at the above phone number, email or street address.

Agenda

- I. Welcome and Introductions
 - Rollcall
- II. Planning Meeting—Discuss project planning
- III. Other Business
- IV. Open Comment
- V. Adjournment

Dated: June 29, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017-14092 Filed 7-5-17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE**Foreign-Trade Zones Board**

[S-48-2017]

Approval of Subzone Status; Premier Logistics, LLC; Tulsa, Oklahoma

On March 24, 2017, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the City of Tulsa-Rogers County Port Authority, grantee of FTZ 53, requesting subzone status subject to the existing activation limit of FTZ 53, on behalf of Premier Logistics, LLC, in Tulsa, Oklahoma.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (82 FR 15687, March 30, 2017). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval.

Pursuant to the authority delegated to the FTZ Board's Executive Secretary (15 CFR Sec. 400.36(f)), the application to establish Subzone 53C was approved on June 16, 2017, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 53's 2,000-acre activation limit.

Dated: June 29, 2017.

Elizabeth Whiteman,*Acting Executive Secretary.*

[FR Doc. 2017-14175 Filed 7-5-17; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE**Foreign-Trade Zones Board**

[S-102-2017]

Foreign-Trade Zone 231—Stockton, California; Application for Subzone Expansion; 5.11, Inc.; Modesto and Lathrop, California

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Port of Stockton, grantee of FTZ 231, requesting expanded subzone status for the facilities of 5.11, Inc., located in Modesto and Lathrop, California. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on June 29, 2017.

Subzone 231B consists of the following sites: *Site 1* (5.22 acres) 4300 Spyres Way, Modesto; and, *Site 2* (5 acres) 17610 Shideler Parkway, Lathrop. The applicant is now requesting authority to expand the subzone to

include proposed *Site 3*: 3201 North Airport Way, Manteca (24.75 acres). No authorization for production activity has been requested at this time. The proposed expanded subzone would be subject to the existing activation limit of FTZ 231.

In accordance with the FTZ Board's regulations, Christopher Kemp of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is August 15, 2017. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to August 30, 2017.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230-0002, and in the "Reading Room" section of the FTZ Board's Web site, which is accessible via www.trade.gov/ftz.

For further information, contact Christopher Kemp at christopher.kemp@trade.gov or (202) 482-0862.

Dated: June 29, 2017.

Elizabeth Whiteman,*Acting Executive Secretary.*

[FR Doc. 2017-14176 Filed 7-5-17; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-580-810]

Welded ASTM A-312 Stainless Steel Pipe From the Republic of Korea: Rescission of Antidumping Duty Administrative Review; 2015-2016

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

SUMMARY: The Department of Commerce is rescinding the administrative review of the antidumping duty order on welded ASTM A-312 stainless steel pipe from the Republic of Korea (Korea). The period of review is December 1, 2015, through November 30, 2016.

DATES: Effective July 6, 2017.

FOR FURTHER INFORMATION CONTACT: Lingjun Wang, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade

Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-2316.

SUPPLEMENTARY INFORMATION:**Background**

On December 1, 2016, the Department of Commerce (Department) published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on welded ASTM A-312 stainless steel pipe from Korea for the period of review (POR) of December 1, 2015, through November 30, 2016.¹ On January 3, 2017, the Department received a timely filed request from the SeAH Steel Corporation (SeAH), in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), for an administrative review of itself.² On February 13, 2017, pursuant to the request and in accordance with 19 CFR 351.221(c)(1)(i), the Department published in the **Federal Register** a notice of initiation of an administrative review of SeAH.³ Also on February 13, 2017, pursuant to 19 CFR 351.213(d)(1), SeAH timely withdrew its request for an administrative review.⁴

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the party, or parties, that requested a review withdraw the request/s within 90 days of the publication date of the notice of initiation of the requested review. As noted above, SeAH withdrew its request for review by the 90-day deadline, and no other party requested an administrative review of this order. Therefore, in response to the timely withdrawal of the request for review and, in accordance with 19 CFR 351.213(d)(1), the Department is rescinding this review.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 81 FR 86694 (December 1, 2016).

² See SeAH Letter re: Request for Administrative Review, dated January 3, 2017.

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 10457 (February 13, 2017).

⁴ See SeAH Letter re: Withdrawal of Review Request, dated February 13, 2017.

duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions to CBP 15 days after the publication date of this notice in the **Federal Register**.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility, under 19 CFR 351.402(f)(2), to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement may result in the presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Orders

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is published in accordance with section 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: June 29, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017-14173 Filed 7-5-17; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

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

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with May anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

DATES: Effective July 6, 2017.

FOR FURTHER INFORMATION CONTACT:

Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482-4735.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with May anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (POR), it must notify the Department within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at <http://access.trade.gov> in accordance with 19 CFR 351.303.¹ Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on the Department's service list.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the period of review. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 30 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted seven days after the placement of the CBP data on the record of this review. Parties wishing to submit rebuttal comments should submit those

¹ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011).

comments five days after the deadline for the initial comments.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be "collapsed" (*i.e.*, treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.*, investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (Q&V) Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Respondent Selection—Aluminum Extrusions From the People's Republic of China

In the event the Department limits the number of respondents for individual examination in the administrative review of the antidumping duty order on aluminum extrusions from the People's Republic of China ("PRC"), the Department intends to select

respondents based on volume data contained in responses to Q&V questionnaires. Further, the Department intends to limit the number of Q&V questionnaires issued in the review based on CBP data for U.S. imports of aluminum extrusions from the PRC. The extremely wide variety of individual types of aluminum extrusion products included in the scope of the order on aluminum extrusions would preclude meaningful results in attempting to determine the largest PRC exporters of subject merchandise by volume. Therefore, the Department will limit the number of Q&V questionnaires issued based on the import values in CBP data which will serve as a proxy for imported quantities. Parties subject to the review to which the Department does not send a Q&V questionnaire may file a response to the Q&V questionnaire by the applicable deadline if they desire to be included in the pool of companies from which the Department will select mandatory respondents. The Q&V questionnaire will be available on the Department's Web site at <http://trade.gov/enforcement/news.asp> on the date of publication of this notice in the **Federal Register**. The responses to the Q&V questionnaire must be received by the Department within 14 days of publication of this notice. Please be advised that due to the time constraints imposed by the statutory and regulatory deadlines for antidumping duty administrative reviews, the Department does not intend to grant any extensions for the submission of responses to the Q&V questionnaire. Parties will be given the opportunity to comment on the CBP data used by the Department to limit the number of Q&V questionnaires issued. We intend to release the CBP data under APO to all parties having an APO within seven days of publication of this notice in the **Federal Register**. The Department invites comments regarding CBP data and respondent selection within five days of placement of the CBP data on the record.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that the Department does not intend to extend the 90-day deadline unless the

requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

Separate Rates

In proceedings involving non-market economy (NME) countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise. In accordance with the separate rates criteria, the Department assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, the Department requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on the Department's Web site at <http://enforcement.trade.gov/nme/nme-sep-rate.html> on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the "Instructions for Filing the Certification" in the Separate Rate Certification. Separate Rate Certifications are due to the Department no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers

who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding² should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,³ should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Status Application will be available on the Department's Web site at <http://enforcement.trade.gov/nme/nme-sep-rate.html> on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to the Department no later than 30 calendar days of publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than May 31, 2018.

² Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (e.g., an ongoing administrative review, new shipper review, etc.) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

³ Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

	Period to be reviewed
Antidumping Duty Proceedings	
CANADA:	
Citric Acid and Certain Citrate Salts, A-122-853	5/1/16-4/30/17
Jungbunzlauer Canada Inc.	
Polyethylene Terephthalate Resin, A-122-855	10/15/15-4/30/17
Compagnie Selenis Canada.	
INDIA: Polyethylene Terephthalate Resin, A-533-861	10/15/15-4/30/17
Ester Industries Ltd.	
JAPAN: Diffusion-Annealed Nickel-Plated Flat-Rolled Steel, A-588-869	5/1/16-4/30/17
Nippon Steel & Sumitomo Metals Corporation.	
Toyo Kohan Co., Ltd.	
REPUBLIC OF KOREA: Polyester Staple Fiber, A-580-839	5/1/16-4/30/17
Huvis Corporation.	
Toray Chemical Korea, Inc.	
TAIWAN:	
Certain Circular Welded Carbon Steel Pipes and Tubes, A-583-008	5/1/16-4/30/17
Shin Yang Steel Co., Ltd.	
Yieh Hsing Enterprise Co., Ltd.	
Certain Stilbenic Optical Brightening Agents, A-583-848	5/1/16-4/30/17
Teh Fong Min International Co, Ltd.	
TFM North America, Inc.	
THE PEOPLE'S REPUBLIC OF CHINA:	
Aluminum Extrusions, A-570-967	5/1/16-4/30/17
Acro Import and Export Co.	
Activa International Inc.	
Activa Leisure Inc.	
Allied Maker Limited.	
Alnan Aluminium Ltd.	
Alnan Aluminum Co., Ltd.	
Aluminicaste Fundicion de Mexico.	
AMC Limited.	
AMC Ltd.	
Anji Chang Hong Chain Manufacturing.	
Aoda Aluminium (Hong Kong) Co., Limited.	
Atlas Integrated Manufacturing Ltd.	
Belton (Asia) Development Limited.	
Belton (Asia) Development Ltd.	
Birchwoods (Lin'an) Leisure Products Co., Ltd.	
Bolnar Hong Kong Ltd.	
Bracalente Metal Products (Suzhou) Co., Ltd.	
Changshu Changshen Aluminum Products Co., Ltd.	
Changshu Changsheng Aluminium Products Co., Ltd.	
Changzhou Changzhen Evaporator Co., Ltd.	
Changzhou Changzheng Evaporator Co., Ltd.	
Changzhou Tenglong Auto Accessories Manufacturing Co. Ltd.	
Changzhou Tenglong Auto Parts Co Ltd.	
Changzhou Tenglong Auto Parts Co., Ltd.	
China Square.	
China Square Industrial Co.	
China Square Industrial Ltd.	
China Zhongwang Holdings, Ltd.	
Chiping One Stop Industrial & Trade Co., Ltd.	
Classic & Contemporary Inc.	
Clear Sky Inc.	
Cosco (J.M.) Aluminium Co., Ltd.	
Dalian Huacheng Aquatic Products.	
Dalian Liwang Trade Co., Ltd.	
Danfoss Micro Channel Heat Exchanger (Jia Xing) Co., Ltd.	
Daya Hardware Co Ltd.	
Dongguan Aoda Aluminum Co., Ltd.	
Dongguan Dazhan Metal Co., Ltd.	
Dongguan Golden Tiger Hardware Industrial Co., Ltd.	
Dragonluxe Limited.	
Dynabright Int'l Group (HK) Limited.	
Dynamic Technologies China Ltd.	
ETLA Technology (Wuxi) Co. Ltd.	
Ever Extend Ent. Ltd.	
Fenghua Metal Product Factory.	
First Union Property Limited.	
FookShing Metal & Plastic Co. Ltd.	
Foreign Trade Co. of Suzhou New & High-Tech Industrial Development Zone.	
Foshan City Nanhai Hongjia Aluminum Alloy Co., Ltd.	
Foshan Golden Source Aluminum Products Co., Ltd.	

	Period to be reviewed
<p> Foshan Guangcheng Aluminium Co., Ltd. Foshan Jinlan Aluminum Co. Ltd. Foshan JinLan Aluminum Co., Ltd. Foshan JMA Aluminum Company Limited. Foshan Sanshui Fenglu Aluminium Co., Ltd. Foshan Shunde Aoneng Electrical Appliances Co., Ltd. Foshan Yong Li Jian Aluminum Co., Ltd. Fujian Sanchuan Aluminum Co., Ltd. Fuzhou Sunmodo New Energy Equipment. Genimex Shanghai, Ltd. Global Hi-Tek Precision Co. Ltd. Global PMX Dongguan Co., Ltd. Global Point Technology (Far East) Limited. Gold Mountain International Development, Ltd. Golden Dragon Precise Copper Tube Group, Inc. Gran Cabrio Capital Pte. Ltd. Gree Electric Appliances. GT88 Capital Pte. Ltd. Guang Ya Aluminium Industries Co., Ltd. Guang Ya Aluminum Industries Company Ltd. Guang Ya Aluminium Industries (Hong Kong) Ltd. Guangcheng Aluminum Co., Ltd. Guangdong Hao Mei Aluminium Co., Ltd. Guangdong Jianmei Aluminum Profile Company Limited. Guangdong JMA Aluminum Profile Factory (Group) Co., Ltd. Guangdong Midea. Guangdong Nanhai Foodstuffs Imp. & Exp. Co., Ltd. Guangdong Weiye Aluminum Factory Co., Ltd. Guangdong Whirlpool Electrical Appliances Co., Ltd. Guangdong Xingfa Aluminium Co., Ltd. Guangdong Xin Wei Aluminum Products Co., Ltd. Guangdong Yonglijian Aluminum Co., Ltd. Guangdong Zhongya Aluminium Company Limited. Guangzhou Jangho Curtain Wall System Engineering Co., Ltd. Guangzhou Mingcan Die-Casting Hardware Products Co., Ltd. Hangzhou Xingyi Metal Products Co., Ltd. Hanwood Enterprises Limited. Hanyung Alcoba Co., Ltd. Hanyung Alcobis Co., Ltd. Hanyung Metal (Suzhou) Co., Ltd. Hao Mei Aluminum Co., Ltd. Hao Mei Aluminum International Co., Ltd. Hebei Xusen Wire Mesh Products Co., Ltd. Henan New Kelong Electrical Appliances Co., Ltd. Hong Kong Gree Electric Appliances Sales Limited. Hong Kong Modern Non-Ferrous Metal. Honsense Development Company. Hui Mei Gao Aluminum Foshan Co., Ltd. Huixin Aluminum. IDEX Dinglee Technology (Tianjin) Co., Ltd. IDEX Technology Suzhou Co., Ltd. IDEX Health. Innovative Aluminium (Hong Kong) Limited. iSource Asia. Jackson Travel Products Co., Ltd. Jangho Curtain Wall Hong Kong Ltd. Jiangmen Jianghai District Foreign Economic Enterprise Corp. Ltd. Jiangmen Jianghai Foreign Ent. Gen. Jiangmen Qunxing Hardware Diecasting Co., Ltd. Jiangsu Changfa Refrigeration Co., Ltd. Jiangyin Suncitygaylin. Jiangyin Trust International Inc. Jiangyin Xinhong Doors and Windows Co., Ltd. Jiaxing Jackson Travel Products Co., Ltd. Jiaxing Taixin Metal Products Co., Ltd. Jiuyan Co., Ltd. JMA (HK) Company Limited. Johnson Precision Engineering (Suzhou) Co., Ltd. Justhere Co., Ltd. Kam Kiu Aluminium Products Sdn. Bhd. Kanal Precision Aluminum Product Co., Ltd. Karlton Aluminum Company Ltd. Kong Ah International Company Limited. </p>	

	Period to be reviewed
<p> Kromet International. Kromet International, Inc. Kromet Intl Inc. Kunshan Giant Light Metal Technology Co., Ltd. Liaoning Zhongwang Group Co., Ltd. Liaoyang Zhongwang Aluminum Profile Co. Ltd. Longkou Donghai Trade Co., Ltd. Metaltek Group Co., Ltd. Metaltek Metal Industry Co., Ltd. Midea Air Conditioning Equipment Co., Ltd. Midea International Trading Co., Ltd. Midea International Training Co., Ltd. Miland Luck Limited. Nanhai Textiles Import & Export Co., Ltd. New Asia Aluminum & Stainless Steel Product Co., Ltd. New Zhongya Aluminum Factory. Nidec Sankyo (Zhejiang) Corporation. Nidec Sankyo Zhejiang Corporation. Nidec Sankyo Singapore Pte. Ltd. Ningbo Coaster International Co., Ltd. Ningbo Hi Tech Reliable Manufacturing Company. Ningbo Innopower Tengda Machinery. Ningbo Ivy Daily Commodity Co., Ltd. Ningbo Yili Import and Export Co., Ltd. North China Aluminum Co., Ltd. North Fenghua Aluminum Ltd. Northern States Metals. PanAsia Aluminium (China) Limited. Pengcheng Aluminum Enterprise Inc. Permasteelisa Hong Kong Limited. Permasteelisa South China Factory. Pingguo Aluminum Company Limited. Pingguo Asia Aluminum Co., Ltd. Popular Plastics Co., Ltd. Precision Metal Works Limited. Press Metal International Ltd. Samuel, Son & Co., Ltd. Sanchuan Aluminum Co., Ltd. Sanhua (Hangzhou) Micro Channel Heat Exchanger Co., Ltd. Shangdong Huasheng Pesticide Machinery Co. Shangdong Nanshan Aluminum Co., Ltd. Shanghai Automobile Air-Conditioner Accessories Co Ltd. Shanghai Automobile Air Conditioner Accessories Ltd. Shanghai Canghai Aluminum Tube Packaging Co., Ltd. Shanghai Dongsheng Metal. Shanghai Shen Hang Imp & Exp Co., Ltd. Shanghai Tongtai Precise Aluminum Alloy Manufacturing Co., Ltd. Shenyang Yuanda Aluminum Industry Engineering Co. Ltd. Shenzhen Hudson Technology Development Co. Shenzhen Jiuyuan Co., Ltd. Sihui Shi Guo Yao Aluminum Co., Ltd. Sincere Profit Limited. Skyline Exhibit Systems (Shanghai) Co., Ltd. Southwest Aluminum (Group) Co., Ltd. Summit Heat Sinks Metal Co, Ltd. Suzhou JRP Import & Export Co., Ltd. Suzhou New Hongji Precision Part Co. Tai-Ao Aluminium (Taishan) Co., Ltd. Taishan City Kam Kiu Aluminium Extrusion Co., Ltd. Taizhou Lifeng Manufacturing Co., Ltd. Taizhou Lifeng Manufacturing Corporation, Ltd. Taizhou United Imp. & Exp. Co., Ltd. tenKsolar (Shanghai) Co., Ltd. Tianjin Ganglv Nonferrous Metal Materials Co., Ltd. Tianjin Jinmao Import & Export Corp., Ltd. Tianjin Ruixin Electric Heat Transmission Technology, Ltd. Tianjin Xiandai Plastic & Aluminum Products Co., Ltd. Tiazhou Lifeng Manufacturing Corporation. Top-Wok Metal Co., Ltd. Traffic Brick Network, LLC. Union Aluminum (SIP) Co. Union Industry (Asia) Co., Ltd. USA Worldwide Door Components (PINGHU) Co., Ltd. </p>	

	Period to be reviewed
Wenzhou Shengbo Decoration & Hardware. Whirlpool (Guangdong). Whirlpool Canada L.P. Whirlpool Microwave Products Development Ltd. WTI Building Products, Ltd. Xin Wei Aluminum Co. Xin Wei Aluminum Co. Ltd. Xin Wei Aluminum Company Limited. Xinya Aluminum & Stainless Steel Product Co., Ltd. Yuyao Fanshun Import & Export Co., Ltd. Yuyao Haoshen Import & Export. Zhaqing China Square Industry Limited. Zhaqing Asia Aluminum Factory Company Ltd. Zhaqing China Square Industrial Ltd. Zhaqing China Square Industry Limited. Zhaqing New Zhongya Aluminum Co., Ltd. Zhejiang Anji Xinxiang Aluminum Co., Ltd. Zhejiang Yongkang Listar Aluminium Industry Co., Ltd. Zhejiang Zhengte Group Co., Ltd. Zhenjiang Xinlong Group Co., Ltd. Zhongshan Daya Hardware Co., Ltd. Zhongshan Gold Mountain Aluminum Factory Ltd. Zhongya Shaped Aluminium (HK) Holding Limited. Zhuhai Runxingtai Electrical Equipment Co., Ltd. Pure Magnesium, A-570-832	5/1/16-4/30/17
Tianjin Magnesium International Co., Ltd. Tianjin Magnesium Metal Co., Ltd. THE SULTANATE OF OMAN: Polyethylene Terephthalate Resin, A-523-810	10/15/15-4/30/17
OCTAL SAOC FZC. TURKEY: Circular Welded Carbon Steel Pipes and Tubes, A-489-501	5/1/16-4/30/17
Borusan Mannesmann Boru Sanayi ve Ticaret A.S. Borusan Birlesik Boru Fabrikalari San ve Tic. Borusan Istikbal Ticaret T.A.S. Borusan Gemlik Boru Tesisleri A.S. Borusan Ihracat Ithalat ve Dagitim A.S. Borusan Ithicat ve Dagitim A.S. Tubeco Pipe and Steel Corporation. Erbosan Erciyas Boru Sanayi ve Ticaret A.S. Toscelik Profil ve Sac Endustrisi A.S. Toscelik Metal Ticaret A.S. Tosyali Dis Ticaret A.S. Yucel Boru ve Profil Endustrisi A.S. Yucelboru Ihracat Ithalat ve Pazarlama A.S. Cayirova Boru Sanayi ve Ticaret A.S. Light-Walled Rectangular Pipe and Tube A-489-815	5/1/16-4/30/17
Agir Haddecilik A.S. Cayirova Boru Sanayi ve Ticaret A.S. Cinar Boru Profil Sanayi ve Ticaret A.S. Noksel Celik Boru Sanayi A.S. Toscelik Metal Ticaret A.S. Toscelik Profil ve Sac Endustrisi A.S. Tosyali Dis Ticaret A.S. Yucel Boru ve Profil Endustrisi A.S. Yucelboru Ihracat Ithalat ve Pazarlama A.S. UNITED ARAB EMIRATES: Certain Steel Nails, A-520-804	5/1/16-4/30/17
Overseas Distrubution Services Inc.	
Countervailing Duty Proceedings	
INDIA: Polyethylene Terephthalate Resin, C-533-862	8/14/15-12/31/16
Ester Industries Ltd. THE PEOPLE'S REPUBLIC OF CHINA: Aluminum Extrusions, C-570-968	1/1/16-12/31/16
Acro Import and Export Co. Activa International Inc. Activa Leisure Inc. Allied Maker Limited. Alnan Aluminium Ltd. Alnan Aluminium Co., Ltd. Alumincaste Fundicion de Mexico. AMC Limited. AMC Ltd. Anji Chang Hong Chain Manufacturing. Aoda Aluminium (Hong Kong) Co., Limited.	

	Period to be reviewed
<p>Atlas Integrated Manufacturing Ltd. Belton (Asia) Development Limited. Belton (Asia) Development Ltd. Birchwoods (Lin'an) Leisure Products Co., Ltd. Bolnar Hong Kong Ltd. Bracalente Metal Products (Suzhou) Co., Ltd. Changshu Changshen Aluminum Products Co., Ltd. Changshu Changsheng Aluminum Products Co., Ltd. Changzhou Changzhen Evaporator Co., Ltd. Changzhou Changzheng Evaporator Co., Ltd. Changzhou Tenglong Auto Parts Co Ltd. Changzhou Tenglong Auto Parts Co., Ltd. Changzhou Tenglong Auto Accessories Manufacturing Co. Ltd. China Square. China Square Industrial Co. China Square Industrial Ltd. China Zhongwang Holdings, Ltd. Chiping One Stop Industrial & Trade Co., Ltd. Classic & Contemporary Inc. Clear Sky Inc. Cosco (J.M.) Aluminum Co., Ltd. Dalian Huacheng Aquatic Products. Dalian Liwang Trade Co., Ltd. Danfoss Micro Channel Heat Exchanger (Jia Xing) Co., Ltd. Daya Hardware Co Ltd. Dongguan Dazhan Metal Co., Ltd. Dongguang Aoda Aluminum Co., Ltd. Dongguan Golden Tiger Hardware Industrial Co., Ltd. Dragonluxe Limited. Dynabright International Group (HK) Ltd. Dynamic Technologies China. ETLA Technology (Wuxi) Co. Ltd. Ever Extend Ent. Ltd. Fenghua Metal Product Factory. First Union Property Limited. FookShing Metal & Plastic Co. Ltd. Foreign Trade Co. of Suzhou New & High-Tech Industrial Development Zone. Foshan City Nanhai Hongjia Aluminum Alloy Co., Ltd. Foshan Golden Source Aluminum Products Co., Ltd. Foshan Guangcheng Aluminium Co., Ltd. Foshan Jinlan Aluminum Co. Ltd. Foshan JinLan Aluminum Co., Ltd. Foshan JMA Aluminum Company Limited. Foshan Shanshui Fenglu Aluminum Co., Ltd. Foshan Shunde Aoneng Electrical Appliances Co., Ltd. Foshan Yong Li Jian Aluminum Co., Ltd. Fujian Sanchuan Aluminum Co., Ltd. Fuzhou Sunmodo New Energy Equipment. Genimex Shanghai, Ltd. Global Hi-Tek Precision Co. Ltd. Global PMX Dongguan Co., Ltd. Global Point Technology (Far East) Limited. Gold Mountain International Development, Ltd. Golden Dragon Precise Copper Tube Group, Inc. Gran Cabrio Capital Pte. Ltd. Gree Electric Appliances. GT88 Capital Pte. Ltd. Guang Ya Aluminium Industries Co. Ltd. Guang Ya Aluminium Industries (HK) Ltd. Guang Ya Aluminum Industries Company Ltd. Guangcheng Aluminum Co., Ltd. Guangdong Hao Mei Aluminum Co., Ltd. Guangdong Jianmei Aluminum Profile Company Limited. Guangdong JMA Aluminum Profile Factory (Group) Co., Ltd. Guangdong Midea. Guangdong Nanhai Foodstuffs Imp. & Exp. Co., Ltd. Guangdong Weiye Aluminum Factory Co., Ltd. Guangdong Whirlpool Electrical Appliances Co., Ltd. Guangdong Xingfa Aluminum Co., Ltd. Guangdong Xin Wei Aluminum Products Co., Ltd. Guangdong Yonglijian Aluminum Co., Ltd. Guangdong Zhongya Aluminum Company Ltd. Guangzhou Jangho Curtain Wall System Engineering Co., Ltd.</p>	

	Period to be reviewed
<p>Guangzhou Mingcan Die-Casting Hardware Products Co., Ltd. Hangzhou Xingyi Metal Products Co., Ltd. Hanwood Enterprises Limited. Hanyung Alcoba Co., Ltd. Hanyung Alcobis Co., Ltd. Hanyung Metal (Suzhou) Co., Ltd. Hao Mei Aluminum Co., Ltd. Hao Mei Aluminum International Co., Ltd. Hebei Xusen Wire Mesh Products Co., Ltd. Henan New Kelong Electrical Appliances Co., Ltd. Hong Kong Gree Electric Appliances Sales Limited. Hong Kong Modern Non-Ferrous Metal. Honsense Development Company. Hui Mei Gao Aluminum Foshan Co., Ltd. Huixin Aluminum. IDEX Dinglee Technology (Tianjin) Co., Ltd. IDEX Technology Suzhou Co., Ltd. IDEX Health. Innovative Aluminum (Hong Kong) Limited. iSource Asia. Jackson Travel Products Co., Ltd. Jangho Curtain Wall Hong Kong Ltd. Jiangmen Jianghai District Foreign Economic Enterprise Corp. Ltd. Jiangmen Jianghai Foreign Ent. Gen. Jiangmen Qunxing Hardware Diecasting Co., Ltd. Jiangsu Changfa Refrigeration Co. Jiangyin Suncitygaylin. Jiangyin Trust International Inc. Jiangyin Xinhong Doors and Windows Co., Ltd. Jiaxing Jackson Travel Products Co., Ltd. Jiaxing Taixin Metal Products Co., Ltd. Jiuyan Co., Ltd. JMA (HK) Company Limited. Johnson Precision Engineering (Suzhou) Co., Ltd. Justhere Co., Ltd. Kam Kiu Aluminum Products Sdn Bhd. Kanal Precision Aluminum Product Co., Ltd. Karlton Aluminum Company Ltd. Kong Ah International Company Limited. Kromet International. Kromet International Inc. Kromet Intl Inc. Kunshan Giant Light Metal Technology Co., Ltd. Liaoning Zhongwang Group Co., Ltd. Liaoyang Zhongwang Aluminum Profile Co. Ltd. Longkou Donghai Trade Co., Ltd. Metaltek Group Co., Ltd. Metaltek Metal Industry Co., Ltd. Midea Air Conditioning Equipment Co., Ltd. Midea International Trading Co., Ltd. Midea International Training Co., Ltd. Miland Luck Limited. Nanhai Textiles Import & Export Co., Ltd. New Asia Aluminum & Stainless Steel Product Co., Ltd. New Zhongya Aluminum Factory. Nidec Sankyo (Zhejiang) Corporation. Nidec Sankyo Zhejiang Corporation. Nidec Sankyo Singapore Pte. Ltd. Ningbo Coaster International Co., Ltd. Ningbo Hi Tech Reliable Manufacturing Company. Ningbo Innopower Tengda Machinery. Ningbo Ivy Daily Commodity Co., Ltd. Ningbo Yili Import and Export Co., Ltd. North China Aluminum Co., Ltd. North Fenghua Aluminum Ltd. Northern States Metals. PanAsia Aluminum (China) Limited. Pengcheng Aluminum Enterprise Inc. Permasteelisa Hong Kong Ltd. Permasteelisa South China Factory. Pingguo Aluminum Company Limited. Pingguo Asia Aluminum Co., Ltd. Popular Plastics Company Limited.</p>	

	Period to be reviewed
<p>Precision Metal Works Limited. Press Metal International Ltd. Samuel, Son & Co., Ltd. Sanchuan Aluminum Co., Ltd. Sanhua (Hangzhou) Micro Channel Heat Exchanger Co., Ltd. Shangdong Huasheng Pesticide Machinery Co. Shangdong Nanshan Aluminum Co., Ltd. Shanghai Automobile Air-Conditioner Accessories Co Ltd. Shanghai Automobile Air Conditioner Accessories Ltd. Shanghai Canghai Aluminum Tube Packaging Co., Ltd. Shanghai Dongsheng Metal. Shanghai Shen Hang Imp & Exp Co., Ltd. Shanghai Tongtai Precise Aluminum Alloy Manufacturing Co. Ltd. Shenyang Yuanda Aluminum Industry Engineering Co. Ltd. Shenzhen Hudson Technology Development Co. Shenzhen Jiuyuan Co., Ltd. Sihui Shi Guo Yao Aluminum Co., Ltd. Sincere Profit Limited. Skyline Exhibit Systems (Shanghai) Co. Ltd. Southwest Aluminum (Group) Co., Ltd. Summit Heat Sinks Metal Co, Ltd. Suzhou JRP Import & Export Co., Ltd. Suzhou New Hongji Precision Part Co. Tai-Ao Aluminum (Taishan) Co. Ltd. Taishan City Kam Kiu Aluminium Extrusion Co., Ltd. Taizhou Lifeng Manufacturing Co., Ltd. Taizhou Lifeng Manufacturing Corporation, Ltd. Taizhou United Imp. & Exp. Co., Ltd. tenKsolar (Shanghai) Co., Ltd. Tianjin Ganglv Nonferrous Metal Materials Co., Ltd. Tianjin Jinmao Import & Export Corp., Ltd. Tianjin Ruxin Electric Heat Transmission Technology Co., Ltd. Tianjin Xiandai Plastic & Aluminum Products Co., Ltd. Tiazhou Lifeng Manufacturing Corporation. Top-Wok Metal Co., Ltd. Traffic Brick Network, LLC. Union Aluminum (SIP) Co. Union Industry (Asia) Co., Ltd. USA Worldwide Door Components (Pinghu) Co., Ltd. Wenzhou Shengbo Decoration & Hardware. Whirlpool (Guangdong). Whirlpool Canada L.P. Whirlpool Microwave Products Development Ltd. WTI Building Products, Ltd. Xin Wei Aluminum Co. Xin Wei Aluminum Co. Ltd. Xin Wei Aluminum Company Limited. Xinya Aluminum & Stainless Steel Product Co., Ltd. Yuyao Fanshun Import & Export Co., Ltd. Yuyao Haoshen Import & Export. Zhaqing China Square Industry Limited. Zhaqing Asia Aluminum Factory Company Ltd. Zhaqing China Square Industrial Ltd. Zhaqing China Square Industry Limited. Zhaqing New Zhongya Aluminum Co., Ltd. Zhejiang Anji Xinxiang Aluminum Co., Ltd. Zhejiang Yongkang Listar Aluminum Industry Co., Ltd. Zhejiang Zhengte Group Co., Ltd. Zhenjiang Xinlong Group Co., Ltd. Zhongshan Daya Hardware Co., Ltd. Zhongshan Gold Mountain Aluminum Factory Ltd. Zhongya Shaped Aluminum (HK) Holding Limited. Zhuhai Runxingtai Electrical Equipment Co., Ltd.</p>	

Suspension Agreements

None.

Duty Absorption Reviews

During any administrative review covering all or part of a period falling

between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or

suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties

have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures “gap” period, of the order, if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with the procedures outlined in the Department’s regulations at 19 CFR 351.305. Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (e.g., the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Factual Information Requirements

The Department’s regulations identify five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (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). These regulations require any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted 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. The regulations, at 19 CFR 351.301, also provide specific time limits for such factual submissions based on the type of factual information being submitted. Please review the final rule, available at <http://enforcement.trade.gov/frn/2013/>

1304frn/2013-08227.txt, prior to submitting factual information in this segment.

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information.⁴ Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. All segments of any antidumping duty or countervailing duty proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.⁵ The Department intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable revised certification requirements.

Extension of Time Limits Regulation

Parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by the Secretary. See 19 CFR 351.302. In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning U.S. Customs and Border Protection data; and (5) quantity and value questionnaires. Under certain circumstances, the Department 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, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by

⁴ See section 782(b) of the Act.

⁵ See *Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also the frequently asked questions regarding the *Final Rule*, available at http://enforcement.trade.gov/lei/notices/factual_info_final_rule_FAQ_07172013.pdf.

which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the final rule, available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: June 29, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017-14172 Filed 7-5-17; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-601]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People’s Republic of China: Preliminary Results and Preliminary Rescission of New Shipper Review; 2015–2016

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review (AR) and a new shipper review (NSR) of the antidumping duty order on tapered roller bearings and parts thereof, finished and unfinished (TRBs), from the People’s Republic of China (PRC). The AR covers six exporters, of which the Department selected two mandatory respondents for individual examination (i.e., Zhejiang Zhaofeng Mechanical & Electronic Co, Ltd. (Zhaofeng); and Zhejiang Zhengda Bearing Co., Ltd. (Zhengda)). The NSR covers Zhejiang Jingli Bearing Technology Co., Ltd. (Zhejiang Jingli). The period of review (POR) is June 1, 2015, through May 31, 2016.

We preliminarily determine that sales of subject merchandise have been made below normal value (NV). In addition, we preliminarily determine that Zhejiang Jingli’s sale to the United States is not *bona fide*. Therefore, we are

preliminarily rescinding this NSR. If these preliminary results are adopted in the final results of this review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Interested parties are invited to comment on these preliminary results.

DATES: Effective July 6, 2017.

FOR FURTHER INFORMATION CONTACT: Andrew Medley or Whitley Herndon, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-4987 or (202) 482-6274, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise covered by the order includes tapered roller bearings and parts thereof. The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 8482.20.00, 8482.91.00.50, 8482.99.15, 8482.99.45, 8483.20.40, 8483.20.80, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.80, 8708.70.6060, 8708.99.2300, 8708.99.4850, 8708.99.6890, 8708.99.8115, and 8708.99.8180. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of the order is dispositive.¹

Preliminary Rescission of the NSR

As discussed in the Bona Fides Analysis Memorandum,² the Department preliminarily finds that the single sale made by Zhejiang Jingli to the United States during the POR is not a *bona fide* sale, as required by section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act).³ The Department reached this conclusion based on the

¹ For a complete description of the scope of the order, see memorandum from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, entitled "Decision Memorandum for the Preliminary Results of the 2015-2016 Antidumping Duty Administrative Review and New Shipper Review of Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China" (Preliminary Decision Memorandum), issued concurrently with and hereby adopted by this notice.

² See Memorandum, "New Shipper Review of Tapered Roller Bearings and Parts Thereof from the People's Republic of China: Analysis of Zhejiang Jingli Bearing Technology, Ltd.'s Bona Fides as a New Shipper," dated June 29, 2017.

³ On February 24, 2016, the President of the United States signed into law the Trade Facilitation and Trade Enforcement Act of 2015, Public Law 114-125 (February 24, 2016), which made amendments to section 751(a)(2)(B) of the Act. These amendments apply to this determination.

totality of the circumstances surrounding the reported sale, including:

(I) the prices of such sales; (II) whether such sales were made in commercial quantities; (III) the timing of such sales; (IV) the expenses arising from such sales; (V) whether the subject merchandise involved in such sales was resold in the United States at a profit; (VI) whether such sales were made on an arms-length basis; and (VII) any other factor {it} determines to be relevant as to whether such sales are, or are not, likely to be typical of those the exporter or producer will make after completion of the review.⁴

Because the non-*bona fide* sale was the only reported sale of subject merchandise during the POR, and thus there are no reviewable transactions on this record, we are preliminarily rescinding the NSR. Because much of the factual information used in our analysis of Zhejiang Jingli's sale involves business proprietary information, a full discussion of the basis for our preliminary determination is set forth in the Bona Fides Analysis Memorandum.

Methodology

The Department is conducting this review in accordance with section 751(a)(1)(B) of the Act. As noted above, there are two mandatory respondents in this administrative review: Zhaofeng and Zhengda. For Zhaofeng, we calculated export prices in accordance with section 772 of the Act. In addition, we based the preliminary dumping margin for certain unreported sales discovered as a result of verification on adverse facts available (AFA).⁵ Because the PRC is a non-market economy (NME) within the meaning of section 771(18) of the Act, NV has been calculated in accordance with section 773(c) of the Act.

For Zhengda, we preliminarily find that this respondent is ineligible for a separate rate because it has failed to demonstrate an absence of *de facto* government control in this administrative review. Therefore, we did not calculate a separate margin for Zhengda.

For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).

⁴ See section 751(a)(2)(B)(iv) of the Act.

⁵ See Preliminary Decision Memorandum, at "Application of Facts Available and use of Adverse Inferences."

ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content. A list of the topics discussed in the Preliminary Decision Memorandum is attached as the Appendix to this notice.

Rate for Non-Examined Companies Which Are Eligible for a Separate Rate

As indicated in the "Preliminary Results of Review" section below, we preliminarily determine that a margin of 76.93 percent applies to the three firms not selected for individual review but determined to be eligible for a separate rate. For further information, see the Preliminary Decision Memorandum at "Separate Rate Assigned to Non-Selected Companies."

Preliminary Results of Review

Two companies involved in the administrative review, Zhengda and Yantai CMC Bearing Co. Ltd./CMC Bearing Co. Ltd. (Yantai CMC) did not demonstrate that they were entitled to a separate rate.⁶ Therefore, the Department preliminarily finds Zhengda and Yantai CMC to be part of the PRC-wide entity.⁷ The rate previously established for the PRC-wide entity is 92.84 percent.

The Department preliminarily determines that the following weighted-average dumping margins exist for the period June 1, 2015, through May 31, 2016:

⁶ With respect to Yantai CMC, we note that the *Initiation Notice* listed this company as "Yantai CMC Bearing Co. Ltd./CMC Bearings Co. Ltd." However, the review request was for Yantai CMC Bearing Co. Ltd./CMC Bearing Co. Ltd. This notice corrects the *Initiation Notice* and clarifies that this review covers Yantai CMC Bearing Co. Ltd./CMC Bearing Co. Ltd. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 53121 (August 11, 2016) (*Initiation Notice*).

⁷ See Preliminary Decision Memorandum, at 12-13. Pursuant to the Department's change in practice, the Department no longer considers the NME entity as an exporter conditionally subject to administrative reviews. See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963, 65970 (November 4, 2013). Under this practice, the NME entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the entity, the entity is not under review and the entity's rate is not subject to change.

Exporters	Weighted-average percent margins
Zhejiang Zhaofeng Mechanical & Electronic Co., Ltd.	76.93
GSP Automotive Group Wenzhou Co., Ltd.*	76.93
Hangzhou Yonggu Auto-Parts C., Ltd.*	76.93
Zhejiang CTL Auto Parts Manufacturing Incorporated Co., Ltd.*	76.93

* This company was not selected as a mandatory respondent but is subject to this administrative review and demonstrated that it qualified for a separate rate in this administrative review.

Disclosure and Public Comment

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review.⁸ Rebuttals to case briefs may be filed no later than five days after case briefs are filed and all rebuttal briefs must be limited to comments raised in the case briefs.⁹ Parties who submit comments are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹⁰

Any interested party may request a hearing within 30 days of publication of this notice.¹¹ Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.¹² If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.¹³

All submissions, with limited exceptions, must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by 5 p.m. Eastern Time (ET) on the due date. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with the APO/ Dockets Unit in Room 18022 and

stamped with the date and time of receipt by 5 p.m. ET on the due date.

Unless otherwise extended, the Department intends to issue the final results of this administrative review, which will include the results of its analysis of all issues raised in the case briefs, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results of the administrative review, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.¹⁴ For Zhaofeng, which has a weighted-average dumping margin which is not zero or *de minimis* (*i.e.*, less than 0.5 percent), we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those sales, in accordance with 19 CFR 351.212(b)(1). For entries that were not reported in the U.S. sales databases submitted by Zhaofeng, the Department will instruct CBP to liquidate such entries at either the AFA rate (related to sales discovered as a result of verification, which will be identified in the liquidation instructions by the applicable customer name)¹⁵ or the PRC-wide rate (for sales made by resellers).

For the respondents which were not selected for individual examination in this administrative review and which qualified for a separate rate, the assessment rate will be equal to the weighted-average dumping margin assigned to Zhaofeng in the final results of this administrative review. For the final results, if we continue to treat Yantai CMC and Zhengda as part of the PRC-wide entity, we will instruct CBP to apply an *ad valorem* assessment rate of 92.84 percent, the current rate established for the PRC-wide entity, to all entries of subject merchandise during the POR which were exported by Yantai CMC and Zhengda.

If we proceed to a final rescission of the NSR, Zhejiang Jingli's entries will be assessed at the rate entered. If we do not proceed to a final rescission of the NSR, pursuant to 19 CFR 351.212(b)(1), we will calculate an importer-specific assessment rate for Zhejiang Jingli. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this NSR if the importer-specific

assessment rate calculated in the final results of this NSR is above *de minimis*.

We intend to issue assessment instructions to CBP 15 days after the publication of the final results of these reviews.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporters listed above which have a separate rate, the cash deposit rate will be the rate established in the final results of this review (except, if the rate is zero or *de minimis*, then a cash deposit rate of zero will be established for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the PRC-wide entity, 92.84 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

If the Department proceeds to a final rescission of the NSR, the cash deposit rate will continue to be the PRC-wide rate for Zhejiang Jingli because the Department will not have determined an individual margin of dumping for this company. If the Department issues final results for the NSR, the Department will instruct CBP to collect a cash deposit, effective upon the publication of the final results, at the rate established therein.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties

⁸ See 19 CFR 351.309(c)(1)(iii).

⁹ See 19 CFR 351.309(d).

¹⁰ See 19 CFR 351.309(c)(2).

¹¹ See 19 CFR 351.310(c).

¹² *Id.*

¹³ See 19 CFR 351.310(d).

¹⁴ See 19 CFR 351.212(b)(1).

¹⁵ See Preliminary Decision Memorandum, at "Application of Facts Available and use of Adverse Inferences."

occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these preliminary results of review and preliminary rescission in accordance with sections 751(a)(1), 751(a)(2)(B) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: June 29, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
 2. Background
 3. Scope of the Order
 4. Determination Not To Select GSP as a Voluntary Respondent
 5. *Bona Fides* Analysis
 6. Discussion of the Methodology
 - a. Non-Market Economy Country Status
 - b. Separate Rates
 - c. Separate Rate Assigned to Non-Selected Companies
 - d. The PRC-Wide Entity
 - e. Application of Facts Available and use of Adverse Interferences
 - f. Surrogate Country
 - g. Date of Sale
 - h. Normal Value Comparisons
 - i. Determination of Comparison Method
 - j. Export Price
 - k. Irrecoverable Value-Added Tax (VAT)
 - l. Normal Value
 - m. Currency Conversion
 7. Recommendation
- [FR Doc. 2017-14174 Filed 7-5-17; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Groundfish Trawl Catcher Processor Economic Data Report

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

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

DATES: Written comments must be submitted on or before September 5, 2017.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Stephanie Warpinski, (907) 586-7228.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a current information collection.

The Groundfish Trawl Catcher Processor Economic Data Report (the EDR) collects information for the Gulf of Alaska Trawl Groundfish Economic Data Report Program (GOA Trawl EDR Program) and for Amendment 80 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area.

The GOA Trawl EDR Program evaluates the economic effects of current and future groundfish and prohibited species catch (PSC) management measures for GOA trawl fisheries. This program provides the National Marine Fisheries Service (NMFS) and the North Pacific Fishery Management Council with baseline information on affected harvesters, crew, processors, and communities in the GOA.

Amendment 80 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area primarily allocates several BSAI non-pollock trawl groundfish fisheries among fishing sectors, and facilitates the formation of harvesting cooperatives among vessels in the Non-American Fisheries Act (non-AFA) Trawl Catcher/Processor Cooperative Program. This program established a limited access privilege program for the non-AFA trawl catcher/processor sector.

Data collected through the EDR includes labor information, revenues received, capital and operational expenses, and other operational or financial data. This information is used to assess the economic effects of Amendment 80 on vessels or entities regulated by the non-AFA Trawl Catcher/Processor Cooperative Program, and impacts of major changes in the groundfish management regime, including allocation of PSC species and target species to harvesting cooperatives.

The EDR is submitted annually by vessel owners and leaseholders of GOA

trawl vessels, processors receiving deliveries from those trawl vessels, and Amendment 80 catcher/processors harvesting in the GOA and BSAI. Submission of the EDR is mandatory.

II. Method of Collection

The EDR may be submitted online, or by mail or facsimile transmission of paper forms. Pacific States Marine Fisheries Commission (PSMFC) has been designated by NMFS as the Data Collection Agent. PSMFC mails EDR announcements and filing instructions to respondents by April 1 of each year. Respondents are encouraged to complete the form online on the PSMFC Web site at <https://survey.psmfc.org>. The EDR is also available in fillable PDF format on the PSMFC Web site at <http://www.psmfc.org/goatrawl/>.

III. Data

OMB Control Number: 0648-0564.

Form Number(s): None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Business or other for-profit organizations; individuals or households.

Estimated Number of Respondents: 25.

Estimated Time per Response: Groundfish Trawl Catcher Processor EDR, 22 hours.

Estimated Total Annual Burden Hours: 550 hours.

Estimated Total Annual Cost to Public: \$31 in recordkeeping/reporting costs.

IV. Request for Comments

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

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

Dated: June 29, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017-14124 Filed 7-5-17; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Economic Surveys of American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands Small Boat-based Fisheries.

OMB Control Number: 0648-0635.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 245.

Average Hours per Response: 10 minutes.

Burden Hours: 100.

Needs and Uses: This request is for extension of a currently approved information collection.

The National Marine Fisheries Service (NMFS) collects information about fishing expenses in the American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands (CNMI) boat-based reef fish, bottomfish, and pelagics fisheries with which to conduct economic analyses that will improve fishery management in those fisheries; satisfy NMFS' legal mandates under Executive Order 12866, the Magnuson-Steven Fishery Conservation and Management Act (U.S.C. 1801 *et seq.*), the Regulatory Flexibility Act, the Endangered Species Act, and the National Environmental Policy Act; and quantify achievement of the performances measures in the NMFS Strategic Operating Plans. An example of these performance measures: the economic data collected will allow quantitative assessment of the fisheries sector's social and economic contribution, linkages and impacts of the fisheries sector to the overall economy through Input-output (I-O) models analyses. Results from I-O analyses will not only provide indicators of social-economic benefits of

the marine ecosystem, a performance measure in the NMFS Strategic Operating Plans, but also be used to assess how fishermen and economy will be impacted by and respond to regulations likely to be considered by fishery managers. These data are collected in conjunction with catch and effort data already being collected in this fishery as part of its creel survey program. The creel survey program is one of the major data collection systems to monitor fisheries resources in these three geographic areas. The survey monitors the islands' fishing activities and interviews returning fishermen at the most active launching ramps/docks during selected time periods on the islands. Participation in the economic data collection is voluntary.

Affected Public: Business or other for-profit organizations; individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395-5806.

Dated: June 29, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017-14125 Filed 7-5-17; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XF497

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting; Correction

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

ACTION: Notice of scoping meetings; correction.

SUMMARY: The Mid-Atlantic Fishery Management Council is holding public scoping meetings to gather input on the development of the Excessive Shares Amendment to the Surfclam and Ocean Quahog FMP. Input obtained from these meetings will be considered by the Council when developing this Amendment.

FOR FURTHER INFORMATION CONTACT: Dr. Christopher Moore, Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526-5255.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** on June 23, 2017, in FR Doc. 2017-13152, on page 28643, in the first column, the **SUMMARY** is corrected as set forth above.

Dated: June 30, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017-14153 Filed 7-5-17; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Gulf of Alaska Catcher Vessel and Processor Trawl Economic Data Report

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

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

DATES: Written comments must be submitted on or before September 5, 2017.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Stephanie Warpinski, (907) 586-7228.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a current information collection.

The Gulf of Alaska Trawl Groundfish Economic Data Report Program evaluates the economic effects of current and future groundfish

management measures for Gulf of Alaska (GOA) trawl fisheries. This program provides the National Marine Fisheries Service (NMFS) and the North Pacific Fishery Management Council with baseline information on affected harvesters, crew, processors, and communities in the GOA. Data collected through the economic data reports (EDRs) include labor information, revenues received, capital and operational expenses, and other operational or financial data. This information is used to assess the impacts of major changes in the groundfish management regime, including catch share program implementation.

The Catcher Vessel GOA Trawl EDR is submitted by owners or leaseholders of catcher vessels that harvest groundfish using trawl gear from the GOA or parallel fisheries. The Processor GOA Trawl EDR is submitted by owners or leaseholders of shoreside processors or stationary floating processors that receive deliveries from vessels that harvest groundfish using trawl gear from the GOA or parallel fisheries. Annual submission of these EDRs is mandatory.

II. Method of Collection

The EDRs may be submitted online, or by mail or facsimile transmission of paper forms. Pacific States Marine Fisheries Commission (PSMFC) has been designated by NMFS as the Data Collection Agent for the GOA Trawl EDR Program. PSMFC mails EDR announcements and filing instructions to respondents by April 1 of each year. Respondents are encouraged to complete the forms online on the PSMFC Web site at <https://survey.psmfc.org>. EDR forms are also available in fillable PDF format on the PSMFC Web site at <http://www.psmfc.org/goatrawl/>.

III. Data

OMB Control Number: 0648–0700.

Form Number(s): None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Business or other for-profit organizations; Individuals or households; not-for-profit institutions.

Estimated Number of Respondents: 88.

Estimated Time per Response: Catcher Vessel GOA Trawl EDR, 15 hours; Processor GOA Trawl EDR, 3 hours.

Estimated Total Annual Burden Hours: 1,104 hours.

Estimated Total Annual Cost to Public: \$197 in recordkeeping/reporting costs.

IV. Request for Comments

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

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

Dated: June 29, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–14123 Filed 7–5–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF489

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Commercial Fireworks Displays in the Monterey Bay National Marine Sanctuary

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

ACTION: Notice of issuance of a Letter of Authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that a Letter of Authorization (LOA) has been issued to the Monterey Bay National Marine Sanctuary (MBNMS), for the take of marine mammals incidental to commercial fireworks displays in the Monterey Bay National Marine Sanctuary (Sanctuary), California.

DATES: Effective from June 29, 2017 to June 28, 2022.

ADDRESSES: The LOA and supporting documents may be obtained online at www.nmfs.noaa.gov/pr/permits/incidental/research.htm. In case of

problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Laura McCue, Office of Protected Resources, NMFS, 301–427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined “negligible impact” in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

NMFS has defined “unmitigable adverse impact” in 50 CFR 216.103 as an impact resulting from the specified activity:

(1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) directly displacing subsistence users; or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and

(2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines “harassment” as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine

mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Regulations governing the taking of harbor seals (*Phoca vitulina richardii*) and California sea lions (*Eumatopias jubatus*), by Level B harassment, incidental to MBNMS's commercial fireworks displays, were issued on June 14, 2017 (82 FR 27434) and remain in effect until June 28, 2022. A correction to the effective dates of the final rule was published on June 27, 2017 (82 FR 29010). For detailed information on the action, please refer to that document. The regulations include mitigation, monitoring, and reporting requirements for the incidental take of marine mammals during commercial fireworks displays within the Sanctuary.

Summary of Request

On October 18, 2016, NMFS received an adequate and complete request for regulations and subsequent LOA from MBNMS for the taking of small numbers of marine mammals incidental to commercial fireworks displays within the Sanctuary. NMFS has issued incidental take authorizations under section 101(a)(5)(A or D) of the MMPA to MBNMS for the specified activity since 2005. NMFS first issued an incidental harassment authorization (IHA) under section 101(a)(5)(D) of the MMPA to MBNMS on July 4, 2005 (70 FR 39235; July 7, 2005), and subsequently issued 5-year regulations governing the annual issuance of LOAs under section 101(a)(5)(A) of the MMPA (71 FR 40928; July 19, 2006). Upon expiration of those regulations, NMFS issued MBNMS an IHA (76 FR 29196; May 20, 2011), and subsequent 5-year regulations and LOA, which expire on June 28, 2017 (77 FR 31537; May 29, 2012).

Professional pyrotechnic devices used in fireworks displays can be grouped into three general categories: aerial shells (paper and cardboard spheres or cylinders ranging from 2–12 inch (in) (5–30 centimeter (cm)) in diameter and filled with incendiary materials), low-level comet and multi-shot devices similar to over-the-counter fireworks (e.g., roman candles), and ground-mounted set piece displays that are mostly static in nature. Each display is unique according to the type and number of shells, the pace of the show, the length of the show, the acoustic qualities of the display site, and even the weather and time of day. An average large display will last 20 minutes and include 700 aerial shells and 750 low-level effects. An average smaller display

lasts approximately seven minutes and includes 300 aerial shells and 550 low-level effects. The MBNMS anticipates permitting up to 10 fireworks events annually. Commercial fireworks displays produce noise that may result in Level B harassment of harbor seals and California sea lions that are hauled out near the fireworks displays. A maximum of 570 harbor seals and 3,983 California sea lions annually could be taken by Level B harassment with 2,850 harbor seals and 19,915 California sea lions taken over the 5-year effective period of the regulations. The authorized take will remain within the annual estimates analyzed in the final rule making.

Authorization

We have issued an LOA to MBNMS authorizing the take of marine mammals incidental to commercial fireworks displays, as described above. Take of marine mammals will be minimized through implementation of mitigation measures designed to reduce impacts on pinnipeds by establishing a sanctuary-wide seasonal prohibition to safeguard pinniped reproductive periods by prohibiting displays between March 1 and June 30 of any year when the primary reproductive season for pinnipeds occurs; establishing four conditional display areas and prohibit displays along the remaining 95 percent of sanctuary coastal areas; limiting displays to an average frequency equal to or less than one every 2 months in each area with a total maximum of 10 displays per year across all four areas; limiting fireworks displays to not exceed 30 minutes, with the exception of two longer displays per year across all four areas that will not exceed 1 hour; implementing a ramp-up period, wherein salutes are not allowed in the first five minutes of the display; and conducting post-show debris cleanups for up to two days whereby all debris from the event is removed). Additionally, the rule includes an adaptive management component that allows for timely modification of mitigation or monitoring measures based on new information, when appropriate. The MBNMS will submit reports as required.

Based on these findings and the information discussed in the preamble to the final rule, the activities described under this LOA will have a negligible impact on marine mammal stocks and will not have an unmitigable adverse impact on the availability of the affected marine mammal stock for subsistence uses.

Dated: June 29, 2017.

Donna S. Wieting,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. 2017–14139 Filed 7–5–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF504

New England Fishery Management Council; Public Meeting; Correction

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

ACTION: Notice; correction.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Research Steering 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 Wednesday, July 19, 2017 at 9 a.m.

ADDRESSES:

Meeting address: The meeting will be held at the Holiday Inn, 700 Myles Standish Boulevard, Taunton, MA 02780; phone: (508) 823–0430.

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: The original noticed published in the **Federal Register** on June 29, 2017 (82 FR 29485). The notice stated that the meeting would begin at 9:30 a.m. This notice corrects the start time in the **DATES** section to begin at 9 a.m. All other information previously published remains the same.

Dated: June 30, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–14152 Filed 7–5–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**United States Patent and Trademark Office****Information Collection; Submissions Regarding Correspondence and Regarding Attorney Representation (Trademarks)**

ACTION: Proposed extension of an existing information 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: 0651-0056 (Submissions Regarding Correspondence and Regarding Attorney Representation (Trademarks)).

DATES: Written comments must be submitted on or before September 5, 2017.

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

- *Email:* InformationCollection@uspto.gov. Include "0651-0056 comment" in the subject line of the message.
- *Federal Rulemaking Portal:* <http://www.regulations.gov>.
- *Mail:* Marcie Lovett, Records and Information Governance Division Director, Office of the Chief Technology Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information should be directed to Catherine Cain, Attorney Advisor, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450; by telephone at 571-272-5966; or by email to catherine.cain@uspto.gov with "0651-0056 comment" in the subject line. Additional information about this collection is also available at <http://www.reginfo.gov> under "Information Collection Review."

SUPPLEMENTARY INFORMATION**I. Abstract**

The United States Patent and Trademark Office (USPTO) administers the Trademark Act, 15 U.S.C. 1051 *et seq.*, which provides for the Federal registration of trademarks, service marks, collective trademarks and service marks, collective membership marks, and certification marks. Individuals and

businesses that use or intend to use such marks in commerce may file an application to register their marks with the USPTO.

Such individuals and business may also submit various communications to the USPTO regarding their pending applications or registered trademarks, including providing additional information needed to process a pending application, filing amendments to the applications, or filing the papers necessary to keep a trademark in force.

In the majority of circumstances, individuals and business retain attorneys to handle these matters. As such, these parties may also submit communications to the USPTO regarding the appointment of attorneys to represent applicants or registrants in the application and post-registration processes or, in the case of applicants or registrants who are not domiciled in the United States, the appointment of domestic representatives on whom may be served notices of process in proceedings affecting the mark, the revocation of an attorney's or domestic representative's appointment, and requests for permission to withdraw from representation.

The rules implementing the Act are set forth in 37 CFR part 2. In addition to governing the registration of trademarks, the Act and rules also govern the appointment and revocation of attorneys and domestic representatives and provide the specifics for filing requests for permission to withdraw as the attorney of record. The information in this collection is available to the public.

The information in this collection can be submitted in paper form or electronically through the Trademark Electronic Application System (TEAS). The information in this collection can be collected in three different formats: paper format, electronically using TEAS forms with dedicated data fields, or electronically using the TEAS Global Form format. The TEAS Global Form format permits the USPTO to collect information electronically when a TEAS form having dedicated data fields is not yet available.

This collection currently has two TEAS forms and two TEAS Global Forms. There are no official paper forms for the items in this collection. Individuals and businesses can submit their own paper forms, following the USPTO's rules and guidelines to ensure that all of the necessary information is provided.

II. Method of Collection

The forms in this collection are available in electronic format through 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

Title of Collection: Submissions Regarding Correspondence and Regarding Attorney Representation.

OMB Control Number: 0651-0056.

IC Instruments and Forms: PTO Forms 2196 and 2201. The TEAS Global Forms: Replacement of Attorney of Record with Another Already-Appointed Attorney and Request to Withdraw as Domestic Representative.

Type of Review: Extension of a Previously Existing Information Collection.

Affected Public: Businesses or other for-profits; not-for-profit institutions; individuals.

Estimated Number of Respondents: 84,291 responses per year. Of this total, the USPTO estimates that most responses will be filed through TEAS.

Estimated Time per Response: The USPTO estimates that the response time for activities related to this collection will take the public approximately 5 to 30 minutes (0.08 to 0.50 hours) to complete this information (See Table 1). This includes the time to gather the necessary information, prepare the requests, and submit them to the USPTO. The time estimates shown for the electronic forms in this collection are based on the average amount of time needed to complete and electronically file the associated form.

Estimated Time Annual Burden Hours: 7,840.77 hours.

Estimated Total Annual Respondent (Hourly) Cost Burden: \$3,214,715.70

The USPTO expects that attorneys will complete these applications. The professional hourly rate for attorneys is \$410. The rate is established by estimates in the 2015 Report on the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association. Using this hourly rate, the USPTO estimates that the total respondent burden for this collection is \$3,214,715.70 per year.

TABLE 1—TOTAL RESPONDENT HOUR AND COST BURDEN

IC No. Item	Estimated time for response (hour) (a)	Estimated annual responses (b)	Estimated annual burden hours (c) (a) × (b)	Rate (\$/hr) (d)	Estimated total annual hourly cost burden (e) (c) × (d)
1. Revocation, Appointment, and/or Change of Address of Attorney/Domestic Representative (Paper)	0.17	150	25.50	\$410.00	\$10,455.00
1. Revocation, Appointment, and/or Change of Address of Attorney/Domestic Representative (TEAS)	0.08	75,000	6,000.00	410.00	2,460,000.00
2. Request for Withdrawal as Attorney of Record/Update of USPTO's Database After Power of Attorney Ends (Paper)	0.25	18	4.50	410.00	1,845.00
2. Request for Withdrawal as Attorney of Record/Update of USPTO's Database After Power of Attorney Ends (TEAS)	0.20	9,000	1,800.00	410.00	738,000.00
3. Replacement of Attorney of Record with Another Already-Appointed Attorney (Paper)	0.50	1	0.50	410.00	205.00
3. Replacement of Attorney of Record with Another Already-Appointed Attorney (TEAS Global)	0.50	1	0.50	410.00	205.00
4. Request to Withdraw as Domestic Representative (Paper)	0.17	1	0.17	410.00	69.70
4. Request to Withdraw as Domestic Representative (TEAS Global)	0.08	120	9.60	410.00	3,936.00
Total		84,291	7,840.77		3,214,715.70

Estimated Total Annual (Non-Hour) Respondent Cost Burden: There are no filing fees or capital start-up, maintenance, operation, or recordkeeping costs associated with this information collection. However, this

collection does have postage costs associated with it. Applicants incur postage costs when submitting the information in paper format to the USPTO by mail through the United States Postal Service. The USPTO

estimates that the majority (98%) of the paper forms are submitted to the USPTO via first-class mail. The USPTO estimates that 289 paper submissions will be mailed for a total non-hour respondent cost burden of \$82.81.

TABLE 2—POSTAGE COSTS

IC No./Item	Estimated annual responses (a)	Postage cost (b)	Total postage cost
1. Revocation of Attorney/Domestic Representative and/or Appointment of Attorney/Domestic Representative (Paper)	150	\$0.49	\$73.50
2. Request for Permission to Withdraw as Attorney of Record (Paper)	18	0.49	8.82
3. Replacement of Attorney of Records with Another Already Appointed Attorney (Paper)	1	0.49	0.49
4. Request to Withdraw as Domestic Representative (Paper)	120	0.49	58.80
Total	289		82.81

Therefore, the USPTO estimates that the total annual (non-hour) cost burden for this collection is \$82.81 due to postage costs.

IV. Request for Comments

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

Comments are invited on:

(a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information;

(c) ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) ways to minimize the burden of the collection of information on

respondents, e.g., the use of automated collection techniques or other forms of information technology.

Marcie Lovett,
Records and Information Governance
Division Director, OCTO, United States Patent
and Trademark Office.

[FR Doc. 2017-14181 Filed 7-5-17; 8:45 am]

BILLING CODE 3510-16-P

DEPARTMENT OF COMMERCE**United States Patent and Trademark Office****Submission for OMB Review; Comment Request; Global Intellectual Property Academy (GIPA) Surveys**

The United States Patent and Trademark Office (USPTO) will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title: Global Intellectual Property Academy (GIPA) Surveys.

OMB Control Number: 0651-0065.

Form Number(s): None.

Type of Request: Regular.

Number of Respondents: 450 per year.

Average Hours per Response: 0.25 hours (15 minutes).

Burden Hours: 112.50 hours.

Cost Burden: \$0.00.

Needs and Uses: The pre-program, post-program, and alumni surveys will be used to obtain feedback from the participants of the various GIPA training classes. The pre-program surveys allow participants to provide feedback on the program expectations and training needs immediately prior to participating in the GIPA training programs. The post-program surveys allow participants to provide feedback on program effectiveness, service, facilities, teaching practices, and processes immediately after completing the GIPA training programs. The alumni surveys allow participants to provide feedback on program effectiveness approximately one year after completing the GIPA training programs.

The USPTO will use the data collected from the surveys to evaluate the percentage of foreign officials trained by GIPA who have initiated or implemented a positive intellectual property change in their organization and to evaluate the percentage of foreign officials trained by GIPA who increased their expertise in intellectual property. The data will also be used to evaluate the satisfaction of the participants with the intellectual property program and the value of the experience as it relates to future job performance. The USPTO also uses the survey data to meet organizational performance and accountability goals.

Affected Public: Businesses or other for-profits; not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Nicholas A. Fraser, email: Nicholas_A_Fraser@omb.eop.gov.

Once submitted, the request will be publicly available in electronic format through reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Further information can be obtained by:

- *Email:* InformationCollection@uspto.gov. Include "0651-0065 copy request" in the subject line of the message.
- *Mail:* Marcie Lovett, Records and Information Governance Division Director, Office of the Chief Technology Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

Written comments and recommendations for the proposed information collection should be sent on or before August 7, 2017 to Nicholas A. Fraser, OMB Desk Officer, via email to Nicholas_A_Fraser@omb.eop.gov, or by fax to 202-395-5167, marked to the attention of Nicholas A. Fraser.

Marcie Lovett,

Records and Information Governance Division Director, OCTO, United States Patent and Trademark Office.

[FR Doc. 2017-14182 Filed 7-5-17; 8:45 am]

BILLING CODE 3510-16-P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE**Proposed Information Collection; Comment Request**

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS) is soliciting comments on the following proposed Generic Information Collection Request (Generic ICR): "Generic Clearance for the Collection of Pilot and Test Data" for approval under the Paperwork Reduction Act (PRA). This collection was developed as part of a Federal Government-wide effort to streamline the process for seeking feedback from the public on service delivery. This notice announces our intent to submit this collection to OMB for approval and solicits comments on specific aspects for the proposed information collection.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by September 5, 2017.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) *By mail sent to:* Corporation for National and Community Service; Attention Amy Borgstrom, Room 10508B; 250 E Street SW., Washington, DC, 20525.

(2) By hand delivery or by courier to the CNCS mailroom at Room 8100 at the mail address given in paragraph (1) above, between 9:00 a.m. and 4:00 p.m. Eastern Time, Monday through Friday, except federal holidays.

(3) Electronically through www.regulations.gov.

Individuals who use a telecommunications device for the deaf (TTY-TDD) may call 1-800-833-3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

Comments submitted in response to this notice may be made available to the public through regulations.gov. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comment that may be made available to the public notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT:

Amy Borgstrom, 202-606-6930, or by email at aborgstrom@cns.gov.

SUPPLEMENTARY INFORMATION: CNCS, as

part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. Sec. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Copies of the information collection request can be obtained by contacting the office listed in the **ADDRESSES** section of this notice.

CNCS is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of CNCS, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are expected to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submissions of responses).

Background

CNCS seeks to renew this generic information collection in order to conduct focus groups and pilot test planned surveys.

Current Action

The information collection activity will enable pilot testing of survey instruments in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By pilot testing we mean information that provides useful insights on how respondents interact with the instrument, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations regarding prospective studies. It will also allow feedback to contribute directly to the improvement of research program management.

The Agency will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are non-controversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;

- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;

- Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency;

- Information gathered will not be used for the purpose of substantially informing influential policy decisions; and

- Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: Generic Clearance for the Testing/Piloting of Survey Instruments.

OMB Number: 3045-0163.

Agency Number: None.

Affected Public: Individuals and Households; Businesses and Organizations; State, Local or Tribal Governments.

Total Respondents: 350.

Frequency: Annual.

Average Time per Response: 7,500 minutes for 50 respondents to respond to test or pilot surveys. 300 minutes for 50 participants to participate in five focus groups. 3,000 minutes for 50 participants to participate in individual interviews.

Estimated Total Burden Hours: 10,800.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

All written comments will be available for public inspection on *regulations.gov*.

Dated: June 22, 2017.

Mary Hyde,

Acting Director, Research and Evaluation.

[FR Doc. 2017-14098 Filed 7-5-17; 8:45 am]

BILLING CODE 6050-28-P

DEPARTMENT OF DEFENSE**Department of the Army****Army Science Board Closed Meeting Notice****AGENCY:** Department of the Army, DoD.**ACTION:** Notice; meeting time corrections.

SUMMARY: The meeting times for four Fiscal Year 2017 (FY17) ASB studies being presented on July 20, 2017, which published in the *Federal Register* on Thursday, June 22, 2017 (82 FR 28484) are changed to the following:

Capabilities To Operate in Megacities and Dense Urban Areas. This study is classified and will be presented in a closed meeting at 1115–1215.

Improving Transition of Laboratory Programs Into Warfighting Capabilities Through Experimentation. This study is not classified and will be presented during an open portion of the meeting at 1330–1430.

Multi-Domain Battle. This study is classified and will be presented in the closed meeting at 0845–0945.

The Future Character of Warfare and Required Capabilities. This study is classified and will be presented in a closed meeting at 1000–1100.

FOR FURTHER INFORMATION CONTACT: Army Science Board, Designated Federal Officer, 2530 Crystal Drive, Suite 7098, Arlington, VA 22202; MAJ Sean M. Madden, the committee's Designated Federal Officer (DFO), at (703)–545–8652 or email: sean.m.madden.mil@mail.mil, or Mr. Paul Woodward at (703)–695–8344 or email: paul.j.woodward2.civ@mail.mil.

SUPPLEMENTARY INFORMATION: None.**Brenda S. Bowen,***Army Federal Register Liaison Officer.*

[FR Doc. 2017–14160 Filed 7–5–17; 8:45 am]

BILLING CODE 5001–03–P**DEPARTMENT OF DEFENSE****Office of the Secretary****Defense Advisory Committee on Investigation Prosecution and Defense of Sexual Assault in the Armed Forces; Notice of Federal Advisory Committee Meeting****AGENCY:** General Counsel of the Department of Defense, 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 Advisory Committee on Investigation Prosecution and Defense of Sexual Assault in the Armed Forces will take place.

DATES: Open to the public, Friday, July 21, 2017, from 8:30 a.m. to 4:45 p.m.**ADDRESSES:** One Liberty Center, 875 N. Randolph Street, Suite 1432, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Dwight Sullivan, 703–695–1055 (Voice), 703–693–3903 (Facsimile), dwight.h.sullivan.civ@mail.mil (Email). Mailing address is DACIPAD, One Liberty Center, 875 N. Randolph Street, Suite 150, Arlington, Virginia 22203. Web site: <http://dacipad.whs.mil/>. The most up-to-date changes to the meeting agenda can be found on the Web site.

SUPPLEMENTARY INFORMATION: 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.

For further information please contact the DAC–IPAD staff director, Captain Tammy Tideswell, JAGC, U.S. Navy, One Liberty Center, 875 N. Randolph Street, Suite 150, Arlington, Virginia 22203 via email whs.pentagon.em.mbx.dacipad@mail.mil; phone (703) 693–3867; or facsimile (703) 693–3903. For submitting written comments or questions to the Panel, send via email to mailbox address: whs.pentagon.em.mbx.dacipad@mail.mil.

Purpose of the Meeting: In section 546 of the National Defense Authorization Act for Fiscal Year 2015 (Pub. L. 113–291), as modified by section 537 of the National Defense Authorization Act for Fiscal Year 2016 (Pub. L. 114–92), Congress tasked the DAC–IPAD to advise the Secretary of Defense on the investigation, prosecution, and defense of allegations of rape, forcible sodomy, sexual assault, and other sexual misconduct involving members of the Armed Forces. This will be the third public meeting held by the DAC–IPAD. At this meeting, the Committee will receive a presentation on the mechanics of a sexual assault investigation from a representative of each Service's military criminal investigation organization followed by a Committee strategic planning session.

Agenda: 8:30 a.m.–8:45 a.m. Welcome and Introduction; 8:45 a.m.–10:45 a.m. Presentation on the Mechanics of a Military Sexual Assault Investigation;

10:45 a.m.–12:45 p.m. DAC–IPAD Strategic Planning Session; 12:45 p.m.–1:30 p.m. Lunch; 1:30 p.m.–4:30 p.m. DAC–IPAD Strategic Planning Session (Continued); 4:30 p.m.–4:45 p.m. Public Comment; 4:45 p.m. Meeting Adjourned.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is limited and is on a first-come basis. Visitors are required to sign in at the One Liberty Center security desk and must leave government-issued photo identification on file and wear a visitor badge while in the building. Department of Defense Common Access Card (CAC) holders who do not have authorized access to One Liberty Center must provide an alternate form of government-issued photo identification to leave on file with security while in the building. All visitors must pass through a metal detection security screening. Individuals requiring special accommodations to access the public meeting should contact the DAC–IPAD at whs.pentagon.em.mbx.dacipad@mail.mil at least five (5) business days prior to the meeting so that appropriate arrangements can be made. In the event the Office of Personnel Management closes the government due to inclement weather or for any other reason, please consult the Web site for any changes to the public meeting date or time.

Written Statements: Pursuant to 41 CFR 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written comments to the Committee about its mission and topics pertaining to this public session. Written comments must be received by the DAC–IPAD at least five (5) business days prior to the meeting date so that they may be made available to the Committee members for their consideration prior to the meeting. Written comments should be submitted via email to the DAC–IPAD at whs.pentagon.em.mbx.dacipad@mail.mil in the following formats: Adobe Acrobat or Microsoft Word. Please note that since the DAC–IPAD operates under the provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be made available for public inspection. Oral statements from the public will be permitted, though the number and length of such oral statements may be limited based on the time available and the number of such requests. Oral presentations by members of the public will be permitted from 4:30 p.m. to 4:45

p.m. on July 21, 2017, in front of the Committee members.

Dated: June 30, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017-14198 Filed 7-5-17; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Military Personnel Testing; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Personnel and Readiness, 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 Advisory Committee on Military Personnel Testing will take place.

DATES: Day 1: Open to the public Thursday, July 27, 2017 from 9:00 a.m. to 4:00 p.m. Day 2: Open to the public Friday, July 28, 2017 from 9:00 a.m. to 12:00 p.m.

ADDRESSES: The address of the meeting is the Doubletree Hotel, 525 West Lafayette Boulevard, Detroit, Michigan 48226.

FOR FURTHER INFORMATION CONTACT: Jane Arabian, (703) 697-9271 (Voice), (703) 614-9272 (Facsimile). Email: jane.m.arabian.civ@mail.mil. Mailing address is Assistant Director, Accession Policy, Office of the Under Secretary of Defense for Personnel and Readiness, Room 3D1066, The Pentagon, Washington, DC 20301-4000.

SUPPLEMENTARY INFORMATION: 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 purpose of the meeting is to review planned changes and progress in developing computerized tests for military enlistment screening.

Agenda: The agenda includes an overview of current enlistment test development timelines, test development strategies, and planned research for the next 3 years.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b and 41 CFR 102-3.140 through 102-3.165, and the availability of space, this meeting is open to the public.

Committee's Designated Federal Officer or Point of Contact: Dr. Jane M. Arabian, Assistant Director, Accession Policy, Office of the Under Secretary of Defense for Personnel and Readiness, Room 3D1066, The Pentagon, Washington, DC 20301-4000, email: jane.m.arabian.civ@mail.mil, telephone (703) 697-9271.

Written Statements: Persons desiring to make oral presentations or submit written statements for consideration at the committee meeting must contact the DFO, Dr. Jane Arabian at the address or telephone number in **FOR FURTHER INFORMATION CONTACT** no later than July 14, 2017.

Dated: June 30, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017-14155 Filed 7-5-17; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS) in Cooperation With the North Carolina Department of Transportation and South Carolina Department of Transportation for Extending SC 31 (Carolina Bays Parkway), in Horry County, South Carolina, To Connect to US 17, in Brunswick County, North Carolina

AGENCY: Department of the Army, U.S. Army Corps of Engineers.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers, Wilmington District, Wilmington Regulatory Division and the U.S. Army Corps of Engineers, Charleston District, Charleston Regulatory Division (collectively COE) are issuing this notice to advise the public that a State (North Carolina Department of Transportation [NCDOT] and South Carolina Department of Transportation [SCDOT]) funded Draft Environmental Impact Statement (DEIS) will be prepared for improvements to SC 31 starting near Little River, Horry County, South Carolina and running northeast to US 17, in an area between Calabash and Shallotte, Brunswick County, North Carolina. This project is called the "Carolina Bays Parkway

Extension" and is NCDOT Project 44604 and SCDOT Project P029554. In accordance with the National Environmental Policy Act (NEPA), the COE is the lead Federal agency responsible for the preparation of the DEIS. Information included in the DEIS will serve as the basis for the COE's evaluation of the proposed project pursuant to Section 404 of the Clean Water Act (CWA). As directed by CEQ regulations implementing NEPA, the COE will cooperate with the NCDOT to the fullest extent possible to reduce duplication between NEPA and the North Carolina Environmental Policy Act of 1971 (SEPA). Therefore, the DEIS will also serve as the basis for the NCDOT's evaluation of the proposed project pursuant to SEPA. The DEIS will assess the potential effects of the proposed project and a range of reasonable project alternatives on impacts to navigable waters and other waters of the United States, including wetlands. The DEIS will also provide information for Federal, State, and local agencies having other jurisdictional responsibility.

FOR FURTHER INFORMATION CONTACT:

Questions about the COE's review of the proposed action, including preparation of the DEIS, can be directed to Mr. Brad Shaver, Regulatory Project Manager (Wilmington District), Wilmington Regulatory Field Office, 69 Darlington Avenue, Wilmington, NC 28403, by telephone: (910) 251-4611, or by email at Brad.E.Shaver@USACE.army.mil or Mr. John Policarpo, Regulatory Project Manager (Charleston District), Charleston Regulatory Field Office, 69A Hagood Avenue, Charleston, SC 29403, by telephone: (843) 329-8043, or by email at John.N.Policarpo@USACE.army.mil.

Questions about the NCDOT's involvement with the proposed project, including use of the DEIS for purposes of SEPA, can be directed to Ms. Kim Gillespie P.E., NCDOT Project Planning Engineer, telephone: (919) 707-6023. Questions about SCDOT's involvement with proposed project can be directed to Ms. Leah Quattlebaum P.E., SCDOT Program Manager, telephone (803) 737-1751.

SUPPLEMENTARY INFORMATION: The COE is evaluating a proposal from the NCDOT and SCDOT in accordance with Section 404 of the CWA and NEPA. Based on the available information, the COE has determined that the proposed project has the potential to significantly affect the quality of the human and natural environment, and therefore warrants the preparation of an EIS.

Description of the Proposed Project. The NCDOT and SCDOT are proposing

transportation improvements from SC 31, in Little River, Horry County, South Carolina, to US 17, near Shallotte, Brunswick County, North Carolina. This proposed project is called the “Carolina Bays Parkway Extension” and is NCDOT Project 44604 and SCDOT Project P029554.

Based on the 2006 Feasibility Study, the Carolina Bays Parkway (CBP) Extension is needed to improve motorists’ mobility and manage existing and future traffic congestion projected along US 17 and other roadways such as S-57/SR 1303 (Hickman Road) within Horry and Brunswick Counties. The preliminary project study area is roughly bounded on the southwest at the interchange of SC 31 and SC 9 near Little River, Horry County, South Carolina, and runs northeast near SR 1303 (Hickman Road) and finally along the existing US 17 corridor up to the Town of Shallotte, Brunswick County, North Carolina. The final project study area and purpose and need for the project will be further defined during development of the DEIS.

To the extent practicable and consistent with COE oversight, this project is expected to be reviewed using the same or similar procedures as set forth in the merger process, as implemented in the State of North Carolina. This merger process is a synchronized review process performing the various environmental review and permitting procedures or consultation requirements necessary for a proposed project in a concurrent fashion. The process would provide a forum for appropriate agency representatives to discuss and reach consensus on ways to facilitate meeting the regulatory requirements of Section 404 of the CWA during the NEPA/SEPA decision-making phase of transportation projects.

The CBP project has roots back to the 1980s and was revitalized with coordination in the 2000s culminating in a feasibility study produced in July of 2006. The feasibility study can be located on the project Web page at: <https://www.ncdot.gov/projects/CBP/>. The current effort by the COE, NCDOT and SCDOT anticipates a DEIS completed by 2020 and the Final Environmental Impact Statement (FEIS) completed by 2022.

Environmental consequences: CEQ regulations (40 CFR 1502.16) state the EIS will include the environmental impacts of the alternatives including the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of man’s environment

and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented. The EIS will assess a reasonable number of alternatives and identify and disclose the direct impacts of the proposed project on the following: Topography, geology, soils, climate, biotic communities, wetlands, fish and wildlife resources, endangered and threatened species, hydrology, water resources and water quality, floodplains, hazardous materials, air quality, noise, aesthetics, recreational resources, historical and cultural resources, socioeconomic, land use, public health and safety, energy requirements and conservation, natural or non-renewable resources, drinking waters, and environmental justice.

Secondary and cumulative environmental impacts: Cumulative impacts result from the incremental impact of the proposed action when added to past, present, and reasonably foreseeable future actions, regardless of what agency or person undertakes the action. Geographic Information System (GIS) data and mapping will be used to evaluate and quantify secondary and cumulative impacts of the proposed project with particular emphasis given to wetlands and surface/groundwater resources.

Mitigation: CEQ regulations (40 CFR 1502.14, 1502.16, and 1508.20) require the EIS to include appropriate mitigation measures. The COE has adopted a mitigation policy which embraces the concepts of “no net loss of wetlands” and project sequencing. This policy supports the overall goal to restore and maintain the chemical, biological, and physical integrity of “Waters of the United States,” specifically wetlands. Mitigation of wetland impacts has been defined by the CEQ to include: Avoidance of impacts (to wetlands), minimizing impacts, rectifying impacts, reducing impacts over time, and compensating for impacts (40 CFR 1508.20). Each of these aspects (avoidance, minimization, and compensatory mitigation) must be considered in sequential order. As part of the EIS, and in accordance with CEQ regulations and COE regulations (33 CFR 320.4(r) and 33 CFR part 332), the NCDOT and SCDOT will develop a compensatory mitigation plan detailing the methodology and approach to compensate for unavoidable impacts to waters of the U.S., including streams and wetlands.

NEPA/SEPA Preparation and Permitting: The proposed project requires approvals from federal and

state agencies under both the NEPA and the SEPA, respectively. Therefore, the COE will serve as the lead Federal agency for the NEPA process. The EIS will serve as the NEPA document for the COE, and as the SEPA document for the State of North Carolina.

Within the EIS, the COE will conduct a thorough environmental review, including an evaluation of a reasonable number of alternatives. After distribution and review of the Draft EIS, consideration of public comment, and issuance of a Final EIS, the Wilmington District and the Charleston District will produce a Federal ROD that will document the completion of the EIS process and serve as a basis for permitting decisions. In accordance with SEPA, the State of North Carolina will issue a separate NC State ROD.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the COE at the address provided. The Wilmington District and Charleston District will issue Public Notices consistent with CEQ requirements.

Dated: June 27, 2017.

Scott McLendon,

Chief, Regulatory Division.

[FR Doc. 2017-14214 Filed 7-5-17; 8:45 am]

BILLING CODE 3720-58-P

DEPARTMENT OF EDUCATION

[Docket No. ED-2017-ICCD-0053]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Federal Direct Loan Program and Federal Family Education Loan Program Teacher Loan Forgiveness Forms

AGENCY: Federal Student Aid (FSA), 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 August 7, 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–0053. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216–32, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Jon Utz, 202–377–4040.

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: Federal Direct Loan Program and Federal Family Education Loan Program Teacher Loan Forgiveness Forms.

OMB Control Number: 1845–0059.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 8,700.

Total Estimated Number of Annual Burden Hours: 2,871.

Abstract: The Teacher Loan Forgiveness (TLF) Application serves as the means by which an eligible Direct Loan or FFEL program borrower who has completed five consecutive years of qualifying teaching service applies for forgiveness of up to \$5,000 or up to \$17,500 of his or her eligible loans. Eligible special education teachers and secondary school math or science teachers may receive a maximum of \$17,500 in loan forgiveness. Other teachers may receive a maximum of \$5,000 in loan forgiveness. Borrowers who are working toward loan forgiveness may use the TLF Forbearance Request to request a forbearance during some or all of their required five consecutive years of teaching service. A prospective TLF applicant may receive a forbearance during some or all of the five-year teaching period only if the projected balance on the borrower's eligible loans at the end of the five-year period (if the borrower made monthly loan payments during that period) would be less than the maximum forgiveness amount for which the borrower qualifies.

Dated: June 29, 2017.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–14132 Filed 7–5–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[OE Docket No. PP–371]

Notice of Availability for Public Comment of Interconnection Facilities Studies Summary Prepared for the Proposed Northern Pass Transmission Project

AGENCY: Office of Electricity Delivery and Energy Reliability, U.S. Department of Energy.

ACTION: Notice of availability for public comment of interconnection facilities studies summary.

SUMMARY: Northern Pass Transmission LLC (NPT) applied to the U.S. Department of Energy (DOE) for a Presidential permit to construct, operate, maintain, and connect an electric transmission line across the U.S. border with Canada, currently referred to as the Northern Pass Project. NPT would construct and operate an overhead high-voltage direct current

(HVDC) electric transmission line that is to originate at an HVDC converter station near Sherbrooke, Québec, Canada; connect to a facility in Franklin, New Hampshire, that will convert the line's direct current to alternating current (AC); and continue from there to its southern terminus in Deerfield, New Hampshire. The proposed facilities will be capable of transmitting up to 1,090 megawatts (MW) of power. The amended applications are summarized below. DOE hereby announces the availability for public comment of a summary of the interconnection facilities studies prepared for the NPT project.

DATES: Comments must be submitted on or before August 7, 2017.

ADDRESSES: Comments should be addressed to: Christopher Lawrence, Office of Electricity Delivery and Energy Reliability, OE–20, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0001. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to Christopher.Lawrence@hq.doe.gov (preferred), or by facsimile to 202–586–8008.

FOR FURTHER INFORMATION CONTACT: Christopher Lawrence (Program Office) at 202–586–5260, or via electronic mail at Christopher.Lawrence@hq.doe.gov; or Rishi Garg (Program Attorney) at 202–586–0258, or via electronic mail at Rishi.Garg@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

Background

Executive Order (EO) 10485 (Sept. 9, 1953), as amended by EO 12038 (Feb. 7, 1978), requires that a Presidential permit be issued by DOE before electricity transmission facilities may be constructed, operated, maintained, or connected at the U.S. border. DOE may issue or amend a permit if it determines that the permit is in the public interest and after obtaining favorable recommendations from the U.S. Departments of State and Defense. In determining whether issuance of a permit for a proposed action is in the public interest, DOE considers the potential environmental impacts of the proposed project, the project's impact on electricity reliability by ascertaining whether the proposed project would adversely affect the operation of the U.S. electric power supply system under normal and contingency conditions, and any other factors that DOE considers relevant to the public interest.

On October 14, 2010, NPT applied to DOE for a Presidential permit to

construct, operate, maintain, and connect an HVDC transmission line across the U.S.-Canada border (the proposed Project). On July 1, 2013, NPT submitted an amended Presidential permit application to DOE. See 78 FR 50,405 (Aug. 19, 2013). On August 31, 2015, NPT further amended its Presidential permit application. See 80 FR 58,725 (Sept. 30, 2015). The amended applications are summarized below.

Applicant's Proposal

In its July 2013 amended application, NPT proposed to construct and operate a primarily overhead HVDC electric transmission line that would originate at an HVDC converter station to be constructed at the Des Cantons Substation in Val-Joli, Québec, Canada; run from there across the international border to Franklin, New Hampshire, where the current would be converted from HVDC to AC; and continue on to its southern terminus in Deerfield, New Hampshire. Under this application, the proposed facilities were to be capable of transmitting up to 1,200 MW of power.

The New Hampshire portion of the proposed Project would be a single-circuit, 300-kilovolt (kV) HVDC transmission line running approximately 153 miles from the U.S. border crossing with Canada near Pittsburg, New Hampshire, to a new HVDC-to-AC transformer facility to be constructed in Franklin, New Hampshire. From Franklin to the Project terminus at the Public Service Company of New Hampshire's existing Deerfield Substation in Deerfield, New Hampshire, the proposed Project would consist of 34 miles of 345-kV AC electric transmission line. The total length of the proposed Project would be approximately 187 miles.

NPT's August 2015 application amendment changed the proposed transmission line route by adding three miles of buried transmission line adjacent to a road not previously analyzed, adding two new transition stations (one in Bridgewater, New Hampshire and another in Bethlehem, New Hampshire, to transition the transmission line between aboveground and buried) of approximately one acre each, and increasing the amount of proposed buried transmission line from approximately eight miles to approximately 60 miles with a total proposed Project length of approximately 192 miles. In addition, the amendment proposed a shift (less than 100 feet) in the international border crossing location, changed the project size from 1,200 MW to 1,000 MW with a potential transfer capability

of 1,090 MW, and included other design changes (e.g., change in converter technology and type of cable). A copy of the amended Presidential permit application and maps of the proposed Project route can be found at the DOE environmental impact statement (EIS) Web site (<http://www.northernpasseis.us>).

Technical Reliability Studies

DOE considers the technical reliability impact of a Presidential permit application as part of the public interest determination, and typical practice is to review a study or studies prepared for interconnection purposes with entities such as the applicable regional transmission operator. In conjunction with the Independent System Operator of New England (ISO-NE), which operates the grid interconnected to the proposed Project, and NPT, the participating transmission owner, RLC Engineering prepared interconnection facilities studies, which consist of a system impact study and sub-synchronous torsional interaction screening study. As a general practice, ISO-NE does not make such studies available to the public, as they consist of critical electric infrastructure information (CEII). CEII includes specific engineering, vulnerability, or detailed design information that could be useful to a person planning an attack on critical infrastructure. However, in the interest of its commitment to transparency, DOE has made available a redacted executive summary of the technical transmission studies, as reviewed by ISO-NE to prevent publication of CEII, on DOE's project Web site at <http://www.northernpasseis.us/> [first go to the "Project Library" and then select the "Reliability Studies" section that has been added at the very top of that page]. DOE's posting of the redacted executive summary of the Project's interconnection facilities studies, as well as this public comment invitation, are meant solely to respond to public participation interests unique to this case. The posting neither represents nor will constitute a new DOE practice in reviews of future Presidential permit applications.

All comments received in response to this Notice will be posted on DOE's Presidential permit Web site at <https://energy.gov/oe/services/electricity-policy-coordination-and-implementation/international-electricity-regulation/pending-applications> under Docket No. PP-371 and made a part of the record in this proceeding to be considered by DOE before making a final determination on

the issuance of a Presidential permit for the NPT Project.

Issued in Washington, DC, on June 28, 2017.

Brian Mills,

Director, Transmission Development, Transmission Permitting and Technical Assistance, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2017-14165 Filed 7-5-17; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC17-134-000.

Applicants: Ameren Illinois Company.

Description: Application of Ameren Illinois Company for Authorization under Section 203 of the Federal Power Act and Request for Expedited Consideration.

Filed Date: 6/28/17.

Accession Number: 20170628-5195.

Comments Due: 5 p.m. ET 7/19/17.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG17-121-000.

Applicants: Cottonwood Wind Project, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Cottonwood Wind Project, LLC.

Filed Date: 6/29/17.

Accession Number: 20170629-5045.

Comments Due: 5 p.m. ET 7/20/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10-2265-013; ER10-1581-019; ER10-2262-007; ER10-2346-009; ER10-2353-009; ER10-2355-009; ER10-2783-014; ER10-2784-014; ER10-2795-014; ER10-2798-014; ER10-2799-014; ER10-2801-014; ER10-2875-014; ER10-2878-014; ER10-2879-014; ER10-2880-014; ER10-2896-014; ER10-2913-014; ER10-2947-014; ER10-2969-014; ER10-3223-008; ER11-2062-022; ER11-2107-013; ER11-2108-013; ER11-2508-021; ER11-2805-021; ER11-2863-011; ER11-4307-022; ER11-4308-022; ER11-4351-009; ER12-261-021; ER13-1745-009; ER13-1788-009; ER13-1789-009; ER13-1801-009; ER13-1802-009;

ER13-1965-012; ER14-1818-013;
ER16-10 002.

Applicants: NRG Power Marketing LLC, Arthur Kill Power LLC, Astoria Gas Turbine Power LLC, Boston Energy Trading and Marketing LLC, Conemaugh Power LLC, Connecticut Jet Power LLC, Devon Power LLC, Dunkirk Power LLC, El Segundo Power, LLC, Energy Plus Holdings LLC, Forward WindPower LLC, GenOn Energy Management, LLC, GenOn Mid-Atlantic, LLC, Green Mountain Energy Company, Independence Energy Group LLC, Indian River Power LLC, Keystone Power LLC, Lookout Windpower, LLC, Middletown Power LLC, Midwest Generation, LLC, Montville Power LLC, NEO Freehold-Gen LLC, North Community Turbines LLC, North Wind Turbines LLC, NRG Bowline LLC, NRG Canal LLC, NRG Chalk Point CT LLC, NRG Chalk Point LLC, NRG Energy Center Dover LLC, NRG Energy Center Paxton LLC, NRG Power Midwest LP, NRG REMA LLC, NRG Wholesale Generation LP, Oswego Harbor Power LLC, Pinnacle Wind, LLC, Reliant Energy Northeast LLC, RRI Energy Services, LLC, Vienna Power LLC, Long Beach Peakers LLC.

Description: Updated Market Power Analysis of the NRG Northeast MBR Sellers.

Filed Date: 6/28/17.

Accession Number: 20170628-5202.

Comments Due: 5 p.m. ET 8/28/17.

Docket Numbers: ER15-1045-004.

Applicants: Pilot Hill Wind, LLC.

Description: Market-Based Triennial Review Filing: 2017 Triennial Market Power Update for Northeast Region—Pilot Hill Wind to be effective 7/1/2017.

Filed Date: 6/28/17.

Accession Number: 20170628-5181.

Comments Due: 5 p.m. ET 8/28/17.

Docket Numbers: ER16-2226-002;

ER16-2227-003.

Applicants: Kelly Creek Wind, LLC, McHenry Battery Storage, LLC.

Description: Triennial Market Power Update for the Northeast Region of Kelly Creek Wind, LLC, et al.

Filed Date: 6/28/17.

Accession Number: 20170628-5210.

Comments Due: 5 p.m. ET 8/28/17.

Docket Numbers: ER17-1314-001;

ER10-2398-005; ER10-2399-005;

ER10-2406-006; ER10-2408-005;

ER10-2409-005; ER10-2410-005;

ER10-2411-006; ER10-2412-006;

ER11-2935-007; ER13-1816-006;

ER14-1933-005; ER16-1152-003;

ER16-1724-002; ER17-1315-001.

Applicants: Arkwright Summit Wind Farm LLC, Blackstone Wind Farm, LLC, Blackstone Wind Farm II LLC, Headwaters Wind Farm LLC, High Trail

Wind Farm, LLC, Jericho Rise Wind Farm LLC, Marble River, LLC, Meadow Lake Wind Farm LLC, Meadow Lake Wind Farm II LLC, Meadow Lake Wind Farm III LLC, Meadow Lake Wind Farm IV LLC, Meadow Lake Wind Farm V LLC, Paulding Wind Farm II LLC, Paulding Wind Farm III LLC, Sustaining Power Solutions LLC.

Description: Updated Market Power Analysis for the Northeast Region and Notice of Non-Material Change in Status of Arkwright Summit Wind Farm LLC, et. al.

Filed Date: 6/28/17.

Accession Number: 20170628-5204.

Comments Due: 5 p.m. ET 8/28/17.

Docket Numbers: ER17-1376-001.

Applicants: Midcontinent

Independent System Operator, Inc.

Description: Compliance filing: 2017-06-29 Amendment to Stored Energy Resource-Type II Compliance to be effective 12/1/2017.

Filed Date: 6/29/17.

Accession Number: 20170629-5041.

Comments Due: 5 p.m. ET 7/20/17.

Docket Numbers: ER17-1935-000.

Applicants: Bruce Power Inc.

Description: § 205(d) Rate Filing: NE Category 1 Seller Request to be effective 6/29/2017.

Filed Date: 6/28/17.

Accession Number: 20170628-5164.

Comments Due: 5 p.m. ET 7/19/17.

Docket Numbers: ER17-1936-000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Credit Policy Revisions to Increase Unsecured Credit Allowance Maximum to be effective 8/27/2017.

Filed Date: 6/28/17.

Accession Number: 20170628-5186.

Comments Due: 5 p.m. ET 7/19/17.

Docket Numbers: ER17-1937-000.

Applicants: Robison Energy, LLC.

Description: Baseline eTariff Filing: Robison Energy, LLC Market Based Rate Tariff to be effective 7/1/2017.

Filed Date: 6/29/17.

Accession Number: 20170629-5000.

Comments Due: 5 p.m. ET 7/20/17.

Docket Numbers: ER17-1938-000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: Two LA's Gabriel Solar 1 & 2 Projects SA Nos. 966 & 967 to be effective 6/27/2017.

Filed Date: 6/29/17.

Accession Number: 20170629-5004.

Comments Due: 5 p.m. ET 7/20/17.

Docket Numbers: ER17-1939-000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: Amended GIA CTV Power Purchase

Contract Trust Project SA No. 881 to be effective 6/30/2017.

Filed Date: 6/29/17.

Accession Number: 20170629-5005.

Comments Due: 5 p.m. ET 7/20/17.

Docket Numbers: ER17-1940-000.

Applicants: Midcontinent Independent System Operator, Inc., Otter Tail Power Company.

Description: § 205(d) Rate Filing: 2017-06-29 SA 3018 OTP-MPC T-T (T16-03) to be effective 8/29/2017.

Filed Date: 6/29/17.

Accession Number: 20170629-5009.

Comments Due: 5 p.m. ET 7/20/17.

Docket Numbers: ER17-1941-000.

Applicants: AEP Texas Central Company.

Description: Tariff Cancellation: AEP Texas Central TCC RS and SA Baseline Cancellation to be effective 6/30/2017.

Filed Date: 6/29/17.

Accession Number: 20170629-5015.

Comments Due: 5 p.m. ET 7/20/17.

Docket Numbers: ER17-1942-000.

Applicants: AEP Texas North Company.

Description: Tariff Cancellation: AEP Texas North OATT Concurrence Cancellation to be effective 6/30/2017.

Filed Date: 6/29/17.

Accession Number: 20170629-5036.

Comments Due: 5 p.m. ET 7/20/17.

Docket Numbers: ER17-1943-000.

Applicants: AEP Texas North Company.

Description: Tariff Cancellation: AEP Texas North RS and SA Baseline Cancellation to be effective 6/30/2017.

Filed Date: 6/29/17.

Accession Number: 20170629-5037.

Comments Due: 5 p.m. ET 7/20/17.

Docket Numbers: ER17-1944-000.

Applicants: AEP Texas Central Company.

Description: Tariff Cancellation: AEP Texas Central OATT Concurrence Cancellation to be effective 6/30/2017.

Filed Date: 6/29/17.

Accession Number: 20170629-5038.

Comments Due: 5 p.m. ET 7/20/17.

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: June 29, 2017.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2017-14148 Filed 7-5-17; 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: ER10-1585-010; ER10-1594-010; ER10-1617-010; ER10-1626-007; ER10-1628-010; ER10-1632-012; ER12-60-012; ER16-1148-001; ER16-733-001.

Applicants: Alabama Electric Marketing, LLC, California Electric Marketing, LLC, LQA, LLC, New Mexico Electric Marketing, LLC, Tenaska Energía de Mexico, S. de R. L. de C.V., Tenaska Power Management, LLC, Tenaska Power Services Co., Tenaska Virginia Partners, L.P., Texas Electric Marketing, LLC.

Description: Updated Market Power Analysis of the Tenaska Northeast MBR Sellers.

Filed Date: 6/28/17.

Accession Number: 20170628-5213.

Comments Due: 5 p.m. ET 8/28/17.

Docket Numbers: ER10-2669-011; ER10-1547-011; ER10-1550-012; ER10-2585-007; ER10-2613-007; ER10-2616-011; ER10-2617-007; ER10-2619-008; ER10-2670-011; ER10-2674-011; ER10-2677-011; ER10-2678-010; ER11-3589-005; ER11-3857-014; ER11-3867-014; ER11-4266-013; ER11-4400-008; ER12-192-012; ER13-2475-009; ER13-2477-009; ER14-1219-004; ER14-1569-005; ER14-1699-004; ER14-883-006; ER15-1596-004; ER15-1597-003; ER15-1598-004; ER15-1599-004; ER15-1600-003; ER15-1602-003; ER15-1603-003; ER15-1604-003; ER15-1605-003; ER15-1606-003; ER15-1607-003; ER15-1608-003; ER15-1958-003; ER17-1906-001.

Applicants: ANP Bellingham Energy Company, LLC, ANP Blackstone Energy Company, LLC, Armstrong Power, LLC, Brayton Point Energy, LLC, Calumet Energy Team, LLC, Casco Bay Energy Company, LLC, Dighton Power, LLC, Dynege Commercial Asset Management, LLC, Dynege Conesville, LLC, Dynege

Dicks Creek, LLC, Dynege Energy Services (East), LLC, Dynege Energy Services, LLC, Dynege Fayette II, LLC, Dynege Hanging Rock II, LLC, Dynege Kendall Energy, LLC, Dynege Killen, LLC, Dynege Lee II, LLC, Dynege Marketing and Trade, LLC, Dynege Miami Fort, LLC, Dynege Power Marketing, LLC, Dynege Resources Management, LLC, Dynege Stuart, LLC, Dynege Washington II, LLC, Dynege Zimmer, LLC, Hopewell Cogeneration Limited Partnership, Illinois Power Marketing Company, Kincaid Generation, L.L.C., Lake Road Generating Company, LLC, Liberty Electric Power, LLC, MASSPOWER, Milford Power Company, LLC, Milford Power, LLC, Northeastern Power Company, Ontelaunee Power Operating Company, LLC, Pleasants Energy, LLC, Richland-Stryker Generation LLC, Sithe/Independence Power Partners, L.P., Troy Energy, LLC.

Description: Updated Market Power Analysis of the Dynege Northeast MBR Sellers.

Filed Date: 6/28/17.

Accession Number: 20170628-5214.

Comments Due: 5 p.m. ET 8/28/17.

Docket Numbers: ER13-434-005; ER13-1403-006; ER13-2100-002; ER13-2106-006; ER13-2109-006; ER13-321-006; ER13-412-004; ER13-450-004; ER13-518-004; ER16-1750-003; ER16-2601-001.

Applicants: Dominion Energy Marketing, Inc., Dominion Nuclear Connecticut, Inc., Dominion Energy Manchester Street, Inc., Dominion Retail, Inc., Fairless Energy, LLC, NedPower Mount Storm, LLC, Fowler Ridge Wind Farm LLC, Virginia Electric and Power Company, Dominion Bridgeport Fuel Cell, LLC, Eastern Shore Solar LLC, Summit Farms Solar, LLC.

Description: Supplement to December 29, 2016 Triennial Market Power Analysis of the Dominion Northeast Region Companies.

Filed Date: 6/28/17.

Accession Number: 20170628-5208.

Comments Due: 5 p.m. ET 7/19/17.

Docket Numbers: ER16-1967-003.
Applicants: PJM Interconnection, L.L.C.

Description: Compliance filing: Compliance filing to amend 12/15/2017 to reflect compliance submitted on 4/24/17 to be effective 2/14/2017.

Filed Date: 6/29/17.

Accession Number: 20170629-5136.

Comments Due: 5 p.m. ET 7/20/17.

Docket Numbers: ER16-1969-003; ER16-1969-004.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Second Errata to April 24, 2017 Midcontinent Independent

System Operator, Inc. tariff filing [Transmittal Letter].

Filed Date: 6/28/17.

Accession Number: 20170628-5212.

Comments Due: 5 p.m. ET 7/12/17.

Docket Numbers: ER17-424-003.

Applicants: Footprint Power Salem Harbor Development.

Description: Triennial Market Power Analysis for Northeast Region of Footprint Power Salem Harbor Development LP.

Filed Date: 6/29/17.

Accession Number: 20170629-5100.

Comments Due: 5 p.m. ET 8/28/17.

Docket Numbers: ER17-16-001.

Applicants: Midcontinent

Independent System Operator, Inc.

Description: Compliance filing: 2017-06-29 Amended Compliance Filing of Order No. 828 to be effective N/A.

Filed Date: 6/29/17.

Accession Number: 20170629-5174.

Comments Due: 5 p.m. ET 7/20/17.

Docket Numbers: ER17-1920-001.

Applicants: Midcontinent

Independent System Operator, Inc.,

Michigan Electric Transmission Company.

Description: Tariff Amendment: 2017-06-29 SA 3026 METC-City of Holland SIFĀ Amendment to be effective 8/31/2017.

Filed Date: 6/29/17.

Accession Number: 20170629-5164.

Comments Due: 5 p.m. ET 7/20/17.

Docket Numbers: ER17-1945-000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing:

1276R14 KCPL NITSA NOA to be effective 9/1/2017.

Filed Date: 6/29/17.

Accession Number: 20170629-5058.

Comments Due: 5 p.m. ET 7/20/17.

Docket Numbers: ER17-1946-000.

Applicants: Helix Ironwood, LLC.

Description: Compliance filing: Notices of Succession and Request for Administrative Cancellation to be effective 6/2/2017.

Filed Date: 6/29/17.

Accession Number: 20170629-5064.

Comments Due: 5 p.m. ET 7/20/17.

Docket Numbers: ER17-1947-000.

Applicants: Helix Maine Wind

Development, LLC.

Description: Compliance filing: Notices of Succession and Request for Administrative Cancellation to be effective 6/2/2017.

Filed Date: 6/29/17.

Accession Number: 20170629-5065.

Comments Due: 5 p.m. ET 7/20/17.

Docket Numbers: ER17-1948-000.

Applicants: Helix Ravenswood, LLC.

Description: Compliance filing: Notices of Succession and Request for

Administrative Cancellation to be effective 6/2/2017.

Filed Date: 6/29/17.

Accession Number: 20170629–5066.

Comments Due: 5 p.m. ET 7/20/17.

Docket Numbers: ER17–1949–000.

Applicants: NorthWestern

Corporation.

Description: § 205(d) Rate Filing: Revised Rate Schedule FERC No. 188 (MT)—Colstrip 1 & 2 Transmission Agreement to be effective 9/1/2017.

Filed Date: 6/29/17.

Accession Number: 20170629–5084.

Comments Due: 5 p.m. ET 7/20/17.

Docket Numbers: ER17–1950–000.

Applicants: AEP Texas Central Company.

Description: Tariff Cancellation: TCC MBR Tariff Volume No. 8 DB Cancellation to be effective 6/30/2017.

Filed Date: 6/29/17.

Accession Number: 20170629–5090.

Comments Due: 5 p.m. ET 7/20/17.

Docket Numbers: ER17–1951–000.

Applicants: Public Service Company of Colorado.

Description: § 205(d) Rate Filing: PSCo–WAPA–PRPA Dyn Trnsfr Craig Alloc–449–0.0.0 to be effective 8/29/2017.

Filed Date: 6/29/17.

Accession Number: 20170629–5125.

Comments Due: 5 p.m. ET 7/20/17.

Docket Numbers: ER17–1952–000.

Applicants: Louisville Gas and Electric Company.

Description: Compliance filing: Order 819 Compliance to be effective 6/30/2017.

Filed Date: 6/29/17.

Accession Number: 20170629–5154.

Comments Due: 5 p.m. ET 7/20/17.

Docket Numbers: ER17–1953–000.

Applicants: Hannaford Energy LLC.

Description: Notice of Cancellation of market based rate tariff of Hannaford Energy LLC.

Filed Date: 6/29/17.

Accession Number: 20170629–5157.

Comments Due: 5 p.m. ET 7/20/17.

Docket Numbers: ER17–1954–000.

Applicants: Athens Energy, LLC.

Description: Notice of Cancellation of market based rate tariff of Athens Energy, LLC.

Filed Date: 6/29/17.

Accession Number: 20170629–5158.

Comments Due: 5 p.m. ET 7/20/17.

Docket Numbers: ER17–1955–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2017–06–29 Attachment X GIA revisions regarding Order 828 to be effective 6/30/2017.

Filed Date: 6/29/17.

Accession Number: 20170629–5159.

Comments Due: 5 p.m. ET 7/20/17.

Docket Numbers: ER17–1956–000.

Applicants: LG&E Energy Marketing Inc.

Description: Compliance filing: Order 819 Compliance to be effective 6/30/2017.

Filed Date: 6/29/17.

Accession Number: 20170629–5163.

Comments Due: 5 p.m. ET 7/20/17.

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: June 29, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–14149 Filed 7–5–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–0222; FRL–9662–00]

CACI/Emergent and Arctic Slope Mission Services, LLC; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that pesticide related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be transferred to CACI/Emergent and its subcontractor, Arctic Slope Mission Services, LLC, in accordance with the CBI regulations. CACI/Emergent and its subcontractor, Arctic Slope Mission Services, LLC, have been awarded a

contract to perform work for OPP, and access to this information will enable CACI/Emergent and its subcontractor, Arctic Slope Mission Services, LLC, to fulfill the obligations of the contract.

DATES: CACI/Emergent and its subcontractor, Arctic Slope Mission Services, LLC, will be given access to this information on or before July 11, 2017.

FOR FURTHER INFORMATION CONTACT: Mario Steadman, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: 703 305–8338; email address: steadman.mario@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2017–0222, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

II. Contractor Requirements

Under Contract No. EP–W–17–011, CACI/Emergent and its subcontractor, Arctic Slope Mission Services, LLC, will provide program management support, including, but not limited to: Development and updating of Agency tools used for managing and locating materials, automating and streamlining work flow processes, tracking of performance and other related efforts. This plan shall meet Agency requirements and initiatives as well as other requirements specified herein. The Contractor shall be required to assess and provide a report on current

tracking, information, and records management systems being utilized by the Anti-Microbial Division (AD). This task will be requested of the Contractor as directed by the TOCOR/ATOCOR when workload increases or changes (e.g., moving from paper-based to computer-automated recordkeeping and processes), and as more sophisticated records management systems emerge. Prior to conducting such an assessment, the TOCOR/ATOCOR must approve the specific assessment execution steps proposed by the Contractor. This assessment should aim at identifying inefficiencies and obstacles impacting AD's systems. Once the assessment has been conducted, the Contractor shall provide an Assessment Report. This Report shall describe in detail the process being assessed, identify shortcomings of the AD process or system assessed, and provide specific recommendations including an action plan for addressing these "shortcomings." The Contractor shall assist in the development of records management systems and maintenance of existing systems with software such as Microsoft Access and Excel to improve reevaluation records management processes as specified by the TOCOR/ATOCOR.

OPP has determined that access by CACI/Emergent and its subcontractor, Arctic Slope Mission Services, LLC, to information on all pesticide chemicals is necessary for the performance of this contract.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under FIFRA sections 3, 4, 6, and 7 and under FFDC sections 408 and 409.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with CACI/Emergent and its subcontractor, Arctic Slope Mission Services, LLC, prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the *FIFRA Information Security Manual*. In addition, CACI/Emergent and its subcontractor, Arctic Slope Mission Services, LLC, are required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to CACI/Emergent and its subcontractor, Arctic Slope Mission Services, LLC, until the requirements in this document have been fully satisfied.

Records of information provided to CACI/Emergent and its subcontractor, Arctic Slope Mission Services, LLC, will be maintained by EPA Project Officers for this contract. All information supplied to CACI/Emergent and its subcontractor, Arctic Slope Mission Services, LLC, by EPA for use in connection with this contract will be returned to EPA when CACI/Emergent and its subcontractor, Arctic Slope Mission Services, LLC, have completed their work.

Authority: 7 U.S.C. 136 *et seq.*; 21 U.S.C. 301 *et seq.*

Dated: May 1, 2017.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2017-14201 Filed 7-5-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2009-1017; FRL-9962-87]

Product Cancellation Order for Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the cancellations, voluntarily requested by the registrants and accepted by the Agency, of the products listed in Table 1 of Unit II., pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This cancellation order follows a May 6, 2016, **Federal Register**, Notice of Receipt of Requests from the registrants listed in Table 2 of Unit II. to voluntarily cancel these product registrations. In the May 6, 2016 notice, EPA indicated that it would issue an order implementing the cancellations, unless the Agency received substantive comments within the 30-day comment period that would merit its further review of these requests, or unless the registrants withdrew their requests. The Agency did not receive any comments on the notice. Further, the registrants did not withdraw their requests. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations. Any distribution, sale, or use of the products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The cancellations are effective July 6, 2017.

FOR FURTHER INFORMATION CONTACT: Michael Yanchulis, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: (703) 347-0237; email address: yanchulis.michael@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2009-1017, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

II. What action is the agency taking?

This notice announces the cancellation, as requested by registrants, of products registered under FIFRA section 3 (7 U.S.C. 136a). These registrations are listed in sequence by registration number in Table 1 of this unit. The following registration numbers that were listed in the **Federal Register** of May 6, 2016, (81 FR 27439) (FRL-9943-66), have already been cancelled in previous **Federal Register** notices: 73801-1 on June 3, 2015 (80 FR 31596); 1020-1 on November 13, 2015 (80 FR 70206); 72642-9, 73314-9, 73314-10, 74075-2, 81002-2, 81002-3 and 85678-16 on October 3, 2016 (81 FR 68013); 100-1004, 100-1006, 499-20204, 6836-25, 6836-201, 6836-284 and 35935-97

on March 22, 2017 (82 FR 14717); and 100–1302 and 100–1303 on March 23, 2017 (82 FR 14896).

TABLE 1—PRODUCT CANCELLATIONS

EPA registration No.	Product name	Chemical name
100–1301	Cypermethrin 250 EC Manufacturing Use Product	Cypermethrin.
100–1455	Medley Herbicide	Prodiamine and Mesotrione.
228–726	Nufarm Prohexadione Calcium Technical	Prohexadione calcium.
5905–584	Helena GA–142	Indole-3-butyric acid, and Cytokinin (as kinetin).
8329–74	Arosurf MSF	POE isooctadecanol.
42750–267	CFI-Star-IFTZ–35 ST	Fludioxonil, Imidacloprid, Metalaxyl, Thiabendazole and Tebuconazole.
42750–268	CFI-Star-IFTZ–10 ST	Fludioxonil, Imidacloprid, Metalaxyl, Thiabendazole and Tebuconazole.
47000–101	CT–42 Lice Spray	Pyrethrins and Piperonyl butoxide.
67690–40	Promite 50WP	Fenbutatin-oxide.
90518–1	Klean Offz Disinfectant Wipes	Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16), 1-Decanaminium, N-decyl-N,N-dime&fnl;thyl-, chloride, 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride, and 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in Table 1 of this unit.

TABLE 2—REGISTRANTS OF CANCELLED PRODUCTS

EPA company No.	Company name and address
100	Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419.
228	Nufarm Americas, Inc., 4020 Aerial Center Parkway, Suite 101, Morrisville, NC 27560.
5905	Helena Chemical Company, 225 Schilling Blvd., Suite 300, Collierville, TN 38017.
8329	Clarke Mosquito Control Products, Inc., 675 Sidwell Court, St. Charles, IL 60174.
42750	Albaugh, LLC, P.O. Box 2127, Valdosta, GA 31604–2127.
47000	Chem-Tech, Ltd., 110 Hopkins Drive, Randolph, WI 53956.
67690	Sepro Corporation, 11550 N. Meridian Street, Suite 600, Carmel, IN 46032–4565.
90518	Savvy Traveler, LLC, 23112 Alcalde Drive, Suite B, Laguna Hills, CA 92653.

III. Summary of Public Comments Received and Agency Response to Comments

During the public comment period provided, EPA received no comments in response to the May 6, 2016, **Federal Register** (81 FR 27439) (FRL–9943–66) notice announcing the Agency’s receipt of the requests for voluntary cancellations of products listed in Table 1 of Unit II.

IV. Cancellation Order

Pursuant to FIFRA section 6(f) (7 U.S.C. 136d(f)), EPA hereby approves the requested cancellations of the registrations identified in Table 1 of Unit II. Accordingly, the Agency hereby orders that the product registrations identified in Table 1 of Unit II. are canceled. The effective date of the cancellations that are the subject of this notice is July 6, 2017. Any distribution, sale, or use of existing stocks of the products identified in Table 1 of Unit II.

in a manner inconsistent with any of the provisions for disposition of existing stocks set forth in Unit VI. will be a violation of FIFRA.

V. What is the agency’s authority for taking this action?

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the EPA Administrator may approve such a request. The notice of receipt for this action was published for comment in the **Federal Register** of May 6, 2016 (81 FR 27439) (FRL–9943–66). The comment period closed on June 6, 2016.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. The existing stocks provisions for the products subject to this order are as follows.

The registrant(s) may continue to sell and distribute existing stocks of product(s) listed in Table 1 of Unit II. until July 6, 2018, which is 1 year after the publication of the Cancellation Order in the **Federal Register**. Thereafter, the registrants are prohibited from selling or distributing products listed in Table 1, except for export in accordance with FIFRA section 17 (7 U.S.C. 136o), or proper disposal. Persons other than the registrants may sell, distribute, or use existing stocks of products listed in Table 1 of Unit II.

until existing stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

Authority: 7 U.S.C. 136 *et seq.*

Dated: May 25, 2017.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2017-14086 Filed 7-5-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[9964-51-OEI]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of Georgia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of the State of Georgia's request to revise its National Primary Drinking Water Regulations Implementation EPA-authorized program to allow electronic reporting.

DATES: EPA's approval is effective August 7, 2017 for the State of Georgia's National Primary Drinking Water Regulations Implementation program, if no timely request for a public hearing is received and accepted by the Agency.

FOR FURTHER INFORMATION CONTACT: Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566-1175, seeh.karen@epa.gov.

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems

that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On June 25, 2017, the Georgia Department of Natural Resources (GA DNR) submitted an application titled "Compliance Monitoring Data Portal" for revision to its EPA-approved drinking water program under title 40 CFR to allow new electronic reporting. EPA reviewed GA DNR's request to revise its EPA-authorized program and, based on this review, EPA determined that the application met the standards for approval of authorized program revision set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Georgia's request to revise its Part 142—National Primary Drinking Water Regulations Implementation program to allow electronic reporting under 40 CFR part 141 is being published in the **Federal Register**.

GA DNR was notified of EPA's determination to approve its application with respect to the authorized program listed above.

Also, in today's notice, EPA is informing interested persons that they may request a public hearing on EPA's action to approve the State of Georgia's request to revise its authorized public water system program under 40 CFR part 142, in accordance with 40 CFR 3.1000(f). Requests for a hearing must be submitted to EPA within 30 days of publication of today's **Federal Register** notice. Such requests should include the following information:

(1) The name, address and telephone number of the individual, organization or other entity requesting a hearing;

(2) A brief statement of the requesting person's interest in EPA's determination, a brief explanation as to why EPA should hold a hearing, and any other information that the requesting person wants EPA to consider when determining whether to grant the request;

(3) The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

In the event a hearing is requested and granted, EPA will provide notice of the hearing in the **Federal Register** not less than 15 days prior to the scheduled hearing date. Frivolous or insubstantial requests for hearing may be denied by EPA. Following such a public hearing, EPA will review the record of the hearing and issue an order either affirming and today's determination or rescinding such determination. If no timely request for a hearing is received and granted, EPA's approval of the State of Georgia's request to revise its part 142—National Primary Drinking Water Regulations Implementation program to allow electronic reporting will become effective 30 days after today's notice is published, pursuant to CROMERR section 3.1000(f)(4).

Matthew Leopard,

Director, Office of Information Management.

[FR Doc. 2017-14215 Filed 7-5-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[9964-47-OEI]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of North Carolina

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of the State of North Carolina's request to revise its National Primary Drinking Water Regulations Implementation EPA-authorized program to allow electronic reporting.

DATES: EPA's approval is effective August 7, 2017 for the State of North Carolina's National Primary Drinking Water Regulations Implementation program, if no timely request for a public hearing is received and accepted by the Agency.

FOR FURTHER INFORMATION CONTACT: Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566-1175, seeh.karen@epa.gov.

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register**

(70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On June 13, 2017, the North Carolina Department of Environmental Quality (NC DEQ) submitted an application titled "Compliance Monitoring Data Portal for revision to its EPA-approved drinking water program under title 40 CFR to allow new electronic reporting. EPA reviewed NC DEQ's request to revise its EPA-authorized program and, based on this review, EPA determined that the application met the standards for approval of authorized program revision set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve North Carolina's request to revise its Part 142—National Primary Drinking Water Regulations Implementation program to allow electronic reporting under 40 CFR part 141 is being published in the **Federal Register**.

NC DEQ was notified of EPA's determination to approve its application with respect to the authorized program listed above.

Also, in today's notice, EPA is informing interested persons that they may request a public hearing on EPA's action to approve the State of North Carolina's request to revise its

authorized public water system program under 40 CFR part 142, in accordance with 40 CFR 3.1000(f). Requests for a hearing must be submitted to EPA within 30 days of publication of today's **Federal Register** notice. Such requests should include the following information:

- (1) The name, address and telephone number of the individual, organization or other entity requesting a hearing;
- (2) A brief statement of the requesting person's interest in EPA's determination, a brief explanation as to why EPA should hold a hearing, and any other information that the requesting person wants EPA to consider when determining whether to grant the request;
- (3) The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

In the event a hearing is requested and granted, EPA will provide notice of the hearing in the **Federal Register** not less than 15 days prior to the scheduled hearing date. Frivolous or insubstantial requests for hearing may be denied by EPA. Following such a public hearing, EPA will review the record of the hearing and issue an order either affirming today's determination or rescinding such determination. If no timely request for a hearing is received and granted, EPA's approval of the State of North Carolina's request to revise its part 142—National Primary Drinking Water Regulations Implementation program to allow electronic reporting will become effective 30 days after today's notice is published, pursuant to CROMERR section 3.1000(f)(4).

Matthew Leopard,

Director, Office of Information Management.

[FR Doc. 2017-14207 Filed 7-5-17; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-1202]

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 September 5, 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: 3060–1202.

Title: Improving 9–1–1 Reliability; Reliability and Continuity of Communications Networks, Including Broadband Technologies.

Form Number: Not Applicable (annual on-line certification).

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit; not-for-profit institutions.

Number of Respondents and Responses: 200 respondents; 200 responses.

Estimated Time per Response: Varies by respondent. Average of 837 hours per respondent.

Frequency of Response: Annual reporting requirement and recordkeeping requirement.

Total Annual Burden: 167,350 hours.

Total Annual Cost: No Cost.

Obligation to Respond: Mandatory.

The statutory authority for this collection of information is contained in sections 1, 4(i), 4(j), 4(o), 201(b), 214(d), 218, 251(e)(3), 301, 303(b), 303(g), 303(r), 307, 309(a), 316, 332, 403, 615a–1, and 615c of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)–(j) & (o), 201(b), 214(d), 218, 251(e)(3), 301, 303(b), 303(g), 303(r), 307, 309(a), 316, 332, 403, 615a–1, and 615c.

Nature and Extent of Confidentiality: The Commission does not consider the fact of filing a certification to be confidential or the responses provided on the face of the certification. The Commission will treat as presumptively confidential and exempt from routine public disclosure under the federal Freedom of Information Act: (1) Descriptions and documentation of alternative measures to mitigate the risks of nonconformance with certification standards; (2) information detailing specific corrective actions taken; and (3) supplemental information requested by the Commission or Bureau with respect to a certification.

Privacy Impact Assessment: No impact(s).

Needs and Uses: This is a revision of an information collection necessary to ensure that all Americans have access to reliable and resilient 911 communications, particularly in times of emergency, by requiring certain 911 service providers to certify implementation of key best practices or reasonable alternative measures. The

information will be collected in the form of an electronically-filed, annual certification from each Covered 911 Service Provider, as defined in the Commission's 2013 *Report and Order*, in which the provider will indicate whether it has implemented certain industry-backed best practices. Providers that are able to respond in the affirmative to all elements of the certification will be deemed to satisfy the "reasonable measures" requirement in Section 12.4(b) of the Commission's rules. If a provider does not certify in the affirmative with respect to one or more elements of the certification, it must provide a brief explanation of what alternative measures it has taken, in light of the provider's particular facts and circumstances, to ensure reliable 911 service with respect to that element(s). Similarly, a service provider may also respond by demonstrating that a particular certification element is not applicable to its networks and must include a brief explanation of why the element(s) does not apply.

The information will be collected by the Public Safety and Homeland Security Bureau, FCC, for review and analysis, to verify that Covered 911 Service Providers are taking reasonable measures to maintain reliable 911 service. In certain cases, based on the information included in the certifications and subsequent coordination with the provider, the Commission may require remedial action to correct vulnerabilities in a service provider's 911 network if it determines that (a) the service provider has not, in fact, adhered to the best practices incorporated in the FCC's rules, or (b) in the case of providers employing alternative measures, that those measures were not reasonably sufficient to mitigate the associated risks of failure in these key areas. The Commission delegated authority to the Bureau to review certification information and follow up with service providers as appropriate to address deficiencies revealed by the certification process.

The purpose of the collection of this information is to verify that Covered 911 Service Providers are taking reasonable measures such that their networks comply with accepted best practices, and that, in the event they are not able to certify adherence to specific best practices, that they are taking reasonable alternative measures. The Commission adopted these rules in light of widespread 911 outages during the June 2012 derecho storm in the Midwest and Mid-Atlantic states, which revealed that multiple service providers did not take

adequate precautions to maintain reliable service.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

[FR Doc. 2017–14162 Filed 7–5–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

OMB 3060–0760]

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 September 5, 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: 3060-0760.

Title: 272 Sunset Order, WC Docket No. 06-120; Access Charge Reform, CC Docket No. 96-262, First Report and Order; Second Order on Reconsideration and Memorandum Opinion and Order; and Fifth Report and Order; Business Data Services Report and Order, WC Docket No. 16-143 *et al.*

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 13 respondents; 66 responses.

Estimated Time per Response: 3-80 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. Statutory authority for this information collection is contained in 47 U.S.C. 1, 4(i)-(j), 201-205, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)-(j), 201-205, and 303(r).

Total Annual Burden: 1,256 hours.

Total Annual Cost: \$61,050.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The information requested is not of a confidential nature. However, respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: On April 28, 2017, the Commission released the *Business Data Services Order*, WC Docket No. 16-143 *et al.*, FCC 17-43, reforming the business data services/special access regulations for incumbent and competitive LECs. The Commission's reforms included replacing the application-based pricing flexibility rules with a new framework under which: (a) Packet-based services, time division multiplexing (TDM) services with bandwidth greater than 45 mbps, and TDM transport services are not subject to ex ante pricing regulation; (b) a new standard is applied to determine the extent to which the Commission regulates price cap LECs' TDM end user channel terminations with bandwidth less than 45 mbps and certain other low bandwidth business data services. Under this standard, a price cap LEC is not subject to ex ante pricing regulation in the provision of these services in counties deemed competitive under the Commission's competitive market test or for which the price cap LEC previously obtained Phase II pricing flexibility; (c) the price cap LEC is subject to ex ante pricing regulation in other counties where it is the incumbent LEC, but in these counties the price cap LEC has downward pricing flexibility (*i.e.*, the equivalent of Phase I pricing flexibility under the prior rules); and (d) the Commission will update the competitive market test results every three years using data already collected in FCC Form 477.

Among other rules changes, the *Business Data Services Report and Order* repealed section 1.774, which set forth requirements for pricing flexibility applications, and added section 1.776, which limits the circumstances under which price cap LECs must file their business data services contracts as contract-based tariffs. The Commission also amended section 69.701 of its rules to specify that its pricing flexibility rules no longer apply to business data services.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017-14217 Filed 7-5-17; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewals; Comment Request (3064-0085 & -0120)

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the renewal of existing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the FDIC is soliciting comment on renewal of the information collections described below.

DATES: Comments must be submitted on or before September 5, 2017.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- <http://www.FDIC.gov/regulations/laws/federal/notices.html>.
- *Email:* comments@fdic.gov. Include the name and number of the collection in the subject line of the message.
- *Mail:* Manny Cabeza (202-898-3767), Counsel, MB 3007, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Manny Cabeza at the FDIC address noted above.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently approved collections of information:

1. *Title:* Record Keeping, Reporting and Disclosure Requirements in Connection with the Equal Credit Opportunity Act Regulation B.

OMB Number: 3064-0085.

Form Number: None.

Affected Public: Insured state nonmember banks and state savings associations.

Burden Estimate:

Source and burden type	Number of respondents	Annual frequency	Total responses	Average time per response	Estimated annual burden (hours)
Credit Reporting History (1002.10) <i>Reporting</i>	3,744	850	3,182,400	2 Minutes	106,080
Total Reporting					106,080
Disclosure for Optional Self-Test (1002.5) <i>Third Party Disclosure</i>	1,100	2,500	2,750,000	1 Minute	45,833
Notifications (1002.9) <i>Third Party Disclosure</i>	3,744	1,715	6,420,960	2 Minutes	214,032
Appraisal Report Upon Request (1002.12(a)(1)) <i>Third Party Disclosure</i>	3,744	190	711,360	5 Minutes	59,280
Notice of Right to Appraisal (1002.14(a)(2)) <i>Third Party Disclosure</i>	3,744	1,650	6,177,600	1 Minute	102,960
Total Third Party Disclosure					422,105
Record Retention (Applications, Actions, Pre-Screened Solicitations)(1002.12) <i>Record Keeping</i>	3,744	360	1,347,840	1 Minute	22,464
Record Retention (Self-Testing)(1002.12) <i>Record Keeping</i>	1,100	1	1,100	2 Hours	2,200
Record Retention (Self-Testing Self-Correction) (1002.15) <i>Record Keeping</i>	275	1	275	8 Hours	2,200
Total Record Keeping					26,864
Total Estimated Annual Burden					555,049

General Description of Collection: Regulation B (12 CFR part 1002) issued by the Consumer Financial Protection Bureau, prohibits creditors from discriminating against applicants on any bases specified by the Equal Credit Opportunity Act; imposes, reporting, record keeping and disclosure requirements; establishes guidelines for gathering and evaluating credit information; and requires creditors to give applicants certain written notices. There is no change in the method or substance of the collection. The overall reduction in burden hours is a result of economic fluctuation. In particular, the

number of respondents has decreased while the reporting frequency and the estimated time per response remain the same.
 2. *Title:* Flood Insurance.
OMB Number: 3064-0120.
Form Number: None.
Affected Public: Insured state nonmember banks and state savings associations.
Burden Estimate: There is no change in the method or substance of the collection. There is an overall reduction in burden hours which is the result of (1) economic fluctuation reflected by a decrease in the number of FDIC-

supervised institutions and (2) a decrease in the number of flood insurance policies nationally. In particular, the number of respondents and the frequency of response (number of loans) have decreased while the hours per response remain the same. FDIC estimates total annual burden to be 111,540 hours. To obtain this figure, FDIC relied on: (a) Data from the Federal Emergency Management Agency (FEMA) as of May 2017; (b) FDIC Call Report data as of March 31, 2017; and (c) Federal Reserve Board mortgage data as of March 31, 2017.

TABLE 1—BURDEN CALCULATION

Item	Share of burden	Hours	Share	Hours	Hours	Total hours
1. Disclosure to the Borrower	50%	0.50	90%	0.45	0.225	25,097
2. Disclosure to the Servicer					0.225	25,097
3. Report to FEMA of a Change in Servicer			10%	0.05	0.05	5,577
4. Recordkeeping (Bank keeps a copy of all notifications)	50%	0.50		0.50	0.50	55,770
		1.0		1.0	1.0	111,540
Respondents (FDIC supervised banks with real estate loans)						3,718
Frequency (Average no. of real estate loans serviced w/ flood ins)						30
Total burden						111,540

Sources: FDIC, FEMA, Federal Reserve Board.

FEMA reported there were 4,983,954 flood insurance policies in effect with a total insured value of \$1,238,657,149,400.¹

FDIC Call Report data showed that as of March 31, 2017, there were a total of 5,790 FDIC-insured institutions with a total of \$4.25 trillion in 1-4 family; multifamily; nonfarm, nonresidential, and agricultural loans secured by real estate. As of March 31, 2017, there were 3,718 FDIC-regulated institutions with a

total value of about \$1.19 trillion in these loans. Based on the foregoing, we estimate that FDIC-regulated banks hold 27.9% of these assets.

The Federal Reserve Board reported \$14.41 trillion in mortgage debt outstanding in the U.S., with \$4.63 trillion (32.4%) held by depository

¹ <https://www.fema.gov/flood-insurance-statistics-current-month> (accessed June 15, 2017).

institutions.² Since this total debt held by banks is close to the value of these real estate loans from Call Report data, we have confidence that we can meld the data sets for estimation purposes. We therefore assume that 32.4% of the value of flood insurance policies will be held by U.S. commercial banks: \$401 billion.

In the absence of any data on the number of real estate loans with flood insurance at any bank, we resort to apportion 32.4% of the number of flood insurance policies (1,614,801) to commercial banks, and 27.9% of those to FDIC-regulated institutions (451,177). Because the value of property varies greatly between different geographical regions and different banks, it is doubtful that this estimation of the number of policies is accurate. However, there exists no other reasonable method for deriving the number of policies at each bank given available data.

Next, we apportioned the 451,177 flood insurance policies to each FDIC-regulated institution according to its share of real estate loans to total real estate loans. The resulting apportionment results in an average of 121 policies per bank, and a median of 30 policies per bank. Because the average is skewed by the large number of policies at large banks, we believe the median is a better measure for calculating burden hours.

Our subject-matter experts (SMEs) for this rule believe that the total burden to the public for complying with this rule is 1.0 hours per policy. We find four PRA related tasks in this rule: (1) Disclosure to Borrowers, (2) Disclosure to Servicers, (3) Reporting to FEMA of Changes in Coverage, and (4) Recordkeeping for tasks 1–3 above. We assume that Recordkeeping will comprise ½ hour, and the remaining ½ is split between the other tasks. We assume that 90% of policies will involve a new origination, and 10% of policies will involve a change in status. With 3,718 respondents holding a median of 30 policies and 1 hour of burden per policy, we calculate a total burden of 111,540 hours. This burden is apportioned to each task as shown in Table 1 above.

General Description of Collection: Each supervised lending institution is currently required to provide a notice of special flood hazards to each borrower with a loan secured by a building or mobile home located or to be located in an area identified by the Director of the

Federal Emergency Management Agency as being subject to special flood hazards. The Riegle Community Development Act requires that each institution also provide a copy of the notice to the servicer of the loan (if different from the originating lender).

Request for Comment

Comments are invited on: (a) Whether the collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collections, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 30th day of June, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017-14151 Filed 7-5-17; 8:45 am]

BILLING CODE 6714-01-P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE & TIME: Tuesday, July 11, 2017 at 10:00 a.m. and its Continuation at the Conclusion of the open meeting on July 13, 2017.

PLACE: 999 E Street NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 52 U.S.C. 30109.

Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

Matters concerning participation in civil actions or proceedings or arbitration.

* * * * *

PERSON TO CONTACT FOR INFORMATION:

Judith Ingram, Press Officer, Telephone: (202) 694-1220.

Laura E. Sinram,

Acting Deputy Secretary of the Commission.

[FR Doc. 2017-14285 Filed 7-3-17; 4:15 pm]

BILLING CODE 6715-01-P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Government Securities Dealers Reports (FR 2004; OMB No. 7100-0003) and a proposal to extend for three years, with revision, the voluntary Weekly Report of Selected Assets and Liabilities of Domestically Chartered Commercial Banks and U.S. Branches and Agencies of Foreign Banks (FR 2644; OMB No. 7100-0075).

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

DATES: Comments must be submitted on or before September 5, 2017.

ADDRESSES: You may submit comments, identified by FR 2004 or FR 2644, by any of the following methods:

- Agency Web site: <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/apps/foia/proposedregs.aspx>.

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Email: regs.comments@federalreserve.gov. Include OMB number in the subject line of the message.

- Fax: (202) 452-3819 or (202) 452-3102.

- Mail: Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at <http://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or

² <https://www.federalreserve.gov/econresdata/releases/mortoutstand/mortoutstand20170331.htm> (accessed June 15, 2017).

contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street (between 18th and 19th Streets NW.), Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: <http://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452-3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263-4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Request for Comment on Information Collection Proposals

The Board invites public comment on the following information collections, which are being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

- a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;
- b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;
- c. Ways to enhance the quality, utility, and clarity of the information to be collected;
- d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and
- e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Federal Reserve should modify the proposed revisions prior to giving final approval.

Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, Without Revision, of the Following Report

Report title: The Government Securities Dealers Reports: Weekly Report of Dealer Positions (FR 2004A), Weekly Report of Cumulative Dealer Transactions (FR 2004B), Weekly Report of Dealer Financing and Fails (FR 2004C), Weekly Report of Specific Issues (FR 2004SI), Daily Report of Specific Issues (FR 2004SD), Supplement to the Daily Report of Specific Issues (FR 2004SD ad hoc), Daily Report of Dealer Activity in Treasury Financing (FR 2004WI), Settlement Cycle Report of Dealer Fails and Transaction Volumes: Class A (FR 2004FA), Settlement Cycle Report of Dealer Fails and Transaction Volumes: Class B (FR 2004FB), Settlement Cycle Report of Dealer Fails and Transaction Volumes: Class C (FR 2004FC), and Settlement Cycle Report of Dealer Fails and Transaction Volumes (FR 2004FM).

Agency form number: FR 2004.
OMB control number: 7100-0003.
Frequency: Weekly, daily, monthly.
Respondents: Dealers in the U.S. government securities market.
Estimated number of respondents: 23.
Estimated average hours per response:

FR 2004A, 3.0 hours; FR 2004B, 3.7 hours; FR 2004C, 3.1 hours; FR 2004SI, 2.2 hours; FR 2004SD, 2.2 hours; FR 2004SD ad hoc, 2.0 hours; FR 2004WI, 1.0 hour; FR 2004FA, 1.0 hour; FR 2004FB, 1.0 hour; FR 2004FC, 1.0 hour; FR 2004FM, 1.5 hours.

Estimated annual burden hours: FR 2004A, 3,588 hours; FR 2004B, 4,425 hours; FR 2004C, 3,708 hours; FR 2004SI, 2,631 hours; FR 2004SD, 1,265 hours; FR 2004SD ad hoc, 1,196 hours; FR 2004WI, 3,680 hours; FR 2004FA, 276 hours; FR 2004FB, 276 hours; FR 2004FC, 276 hours; FR 2004FM, 414 hours.

General Description of Report: The Federal Reserve Bank of New York, on behalf of the Federal Reserve System, collects data from primary dealers in the U.S. government securities market. Filing of these data is required to obtain the benefit of primary dealer status. The Federal Reserve uses these data to (1) monitor the condition of the U.S. government securities market in its Treasury market surveillance and analysis of the market and to (2) assist and support the U.S. Department of the

Treasury in its role as fiscal agent for Treasury financing operations. In addition, these data are helpful in the analysis of broad financial conditions and a range of financial stability issues.

Legal authorization and confidentiality: This information collection is authorized by sections 2A, 12A(c), 14, and 15 of the Federal Reserve Act (12 U.S.C. 225a, 263c, 353-359, and 391) and is required to obtain or retain the benefit of dealer status. Individual respondent data are regarded as confidential under the Freedom of Information Act (5 U.S.C. 552(b)(4) and (b)(8)).

Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, With Revision, of the Following Report

Report title: Weekly Report of Selected Assets and Liabilities of Domestically Chartered Commercial Banks and U.S. Branches and Agencies of Foreign Banks.

Agency form number: FR 2644.
OMB control number: 7100-0075.
Effective Date: January 3, 2018.
Frequency: Weekly.

Respondents: Domestically chartered commercial banks and U.S. branches and agencies of foreign banks.

Estimated number of respondents: 875.
Estimated average hours per response: 2.35 hours.

Estimated annual burden hours: 106,925 hours.

General Description of Report: The FR 2644 is a balance sheet report that is collected as of each Wednesday from an authorized stratified sample of 875 domestically chartered commercial banks and U.S. branches and agencies of foreign banks. The FR 2644 is the only source of high-frequency data used in the analysis of current banking developments. The FR 2644 collects sample data that are used to estimate universe levels using data from the quarterly commercial bank Consolidated Reports of Condition and Income (FFIEC 031, FFIEC 041, and FFIEC 051; OMB No. 7100-0036) and the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002; OMB No. 7100-0032) (Call Reports). Data from the FR 2644, together with data from other sources, are used to construct weekly estimates of bank credit, balance sheet data for the U.S. banking industry, sources and uses of banks' funds, and to analyze current banking and monetary developments. The Board publishes the data in aggregate form in the weekly H.8 statistical release, *Assets and Liabilities of Commercial Banks in the United*

States, which is followed closely by other government agencies, the banking industry, the financial press, and other users. The H.8 release provides a balance sheet for the banking industry as a whole and data disaggregated by its large domestic, small domestic, and foreign-related bank components.

Proposed revisions: The Board proposes several revisions to simplify and reduce the overall reporting burden associated with the FR 2644 report. The proposed FR 2644 reporting form would consist of 29 balance-sheet items and 2 memoranda items, an overall reduction of six data items.

Combine Asset Items 3.a and 3.b Into One Data Item, and Liability Items 9.a and 9.b Into One Data Item

The Board proposes to combine (1) Federal funds sold and securities purchased under agreements to resell with commercial banks in the U.S. (including U.S. branches and agencies of foreign banks) (item 3.a) and (2) Federal funds sold and securities purchased under agreements to resell with others (including nonbank brokers and dealers in securities and FHLB) (item 3.b) into one new item: Federal funds sold and securities purchased under agreements to resell (item 3) and to combine (1) Borrowings (including federal funds purchased and securities sold under agreements to repurchase and other borrowed money) from commercial banks in the U.S. (including U.S. branches and agencies of foreign banks) (item 9.a) and (2) Borrowings (including federal funds purchased and securities sold under agreements to repurchase and other borrowed money) from others (including FRB and FHLB) (item 9.b) into one new item: Borrowings (including federal funds purchased and securities sold under agreements to repurchase and other borrowed money) (item 9).

Counterparty-level detail on federal funds sold and securities purchased under agreements to resell (federal funds) has been collected from large banks since mid-1969 and from small banks since July 2009. Similar information for borrowings has been reported by both large and small banks since October 1996. In the H.8 release, federal funds sold to commercial banks have been included in interbank loans and federal funds sold to others have been included in non-core loans as part of other loans and leases.

These asset/liability breakdowns have provided useful information on counterparties, especially during the financial crisis. However, this information may now be obtained from the Report of Selected Money Market

Rates (FR 2420; OMB No. 7100-0357), which collects transaction-level data, including counterparty information, for both federal funds purchased and other borrowings. Therefore, the Board recommends dropping the counterparty detail from the FR 2644 report.

Replace Item 8 With New Item 8.b

The Board proposes to replace Total deposits (item 8) with All other deposits (item 8.b). This new item will consist of all deposits other than time deposits of \$100,000 or more. The Board assesses that reporting accuracy will be higher if banks report the two pieces of total deposits separately, rather than reporting total deposits and time deposits of \$100,000 or more, a subset of the former. The Board believes that this small change will reduce the incidence of misreporting, leading to fewer edit failures and less need for explanatory contact with respondents.

Proposed Elimination of Data Items

The Board proposes to stop separately collecting two data items related to banks' derivative and other trading activities: (1) Trading assets, other than securities and loans included above (item 5) and (2) Trading liabilities (item 10). Data item 5 would be included in All other assets (item 6.b), while data item 10 would be rolled into All other liabilities (including subordinated notes and debentures) (item 11.b). Successive data items would be renumbered as appropriate.

During the 2015 renewal of the FR 2644, derivatives with positive and negative fair values, items 5.a and 10.a, the major components of trading assets and trading liabilities respectively, were dropped from the reporting form. Weekly changes in the total items could reasonably be attributed to movements in derivatives, since they accounted for the preponderance of the trading items. However, in the intervening period, the Board has assessed that the benefits of collecting the two trading assets and liabilities items separately, in terms of analytical usefulness, do not exceed the costs of collection.

The Board also proposes to stop collecting two memoranda items: (1) Loans to small businesses amount currently outstanding of "Loans secured by nonfarm nonresidential properties" with original amounts of \$1,000,000 or less (included in item 4.a.(5) above) (item M.2 a) and (2) Loans to small businesses amount currently outstanding of "Commercial and industrial loans to U.S. addressees" with original amounts of \$1,000,000 or less (included in item 4.c above) (item M.2. b).

These memoranda items were added to the FR 2644 reporting form as of January 7, 2015, due to increasing interest in the health of small business lending and the lack of other timely sources of information. The recommendation to discontinue the collection of these data items is based on three factors:

(1) The new FFIEC 051 Call Report for eligible small banks with assets less than \$1 billion will require only semiannual reporting (June and December) for the related Call Report data items. This new Call Report was implemented as of March 31, 2017. Semiannual, rather than quarterly, reporting by three-fourths of the domestic banks in the universe would severely limit the Board's ability to estimate universe data from the weekly sample FR 2644 data and to sufficiently benchmark those estimates, leading to deterioration in the universe estimates.

(2) During the development of the FFIEC 051, both in-person conversations with bankers and their comments in response to the associated **Federal Register** notices identified these items as among the most burdensome for banks to provide, in some cases requiring manual intervention to do so.

(3) Many of the panel respondents, including most of the largest banks, repeat their latest quarterly Call Report figures for these data items. This practice does not provide the Board with the more up-to-date information that it had been seeking.

Legal authorization and confidentiality: The FR 2644 is authorized by section 2A and 11(a)(2) of the Federal Reserve Act (12 U.S.C. 225(a) and 248(a)(2)) and by section 7(c)(2) of the International Banking Act (12 U.S.C. 3105(c)(2)) and is voluntary. Individual respondent data are regarded as confidential under the Freedom of Information Act (5 U.S.C. 552(b)(4)).

Board of Governors of the Federal Reserve System, June 29, 2017.

Ann E. Misback,
Secretary of the Board.

[FR Doc. 2017-14140 Filed 7-5-17; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank

holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 1, 2017.

A. Federal Reserve Bank of Boston (Prabal Chakrabarti, Senior Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02210-2204. Comments can also be sent electronically to BOS.SRC.Applications.Comments@bos.frb.org:

1. *SI Financial Group, Inc.*, Willimantic, Connecticut; to become a bank holding company in association with the revocation of its 10(1) election. SI Financial Group owns Savings Institute Bank and Trust Company, Willimantic, Connecticut.

B. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101-2566. Comments can also be sent electronically to

Comments.applications@clev.frb.org:

1. *Wayne Savings Bancshares, Inc.*, Wooster, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of Wayne Savings Community Bank, Wooster, Ohio, upon its conversion to a commercial bank.

C. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309. Comments can also be sent electronically to Applications.Comments@atl.frb.org:

1. *Seacoast Banking Corporation of Florida*, Stuart, Florida; to merge with NorthStar Banking Corporation, and thereby indirectly acquire NorthStar Bank, both of Tampa, Florida.

D. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. *First Busey Corporation*, Champaign, Illinois; to merge with Mid Illinois Bancorp, Inc., Peoria, Illinois, and thereby indirectly acquire South Side Trust & Savings Bank, Peoria, Illinois.

Board of Governors of the Federal Reserve System, June 30, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017-14209 Filed 7-5-17; 8:45 am]

BILLING CODE 6210-01-P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090-0118; Docket 2017-0001; Sequence 2]

Submission for OMB Review; Statement of Witness, Standard Form 94

AGENCY: Federal Vehicle Policy Division, General Services Administration (GSA).

ACTION: Notice of a request for comments regarding a reinstatement, with change, to an OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995, GSA has submitted to the Office of Management and Budget (OMB) a request to review and approve a reinstatement, with change, to an information collection requirement concerning Standard Form (SF) 94, Statement of Witness. A notice was published in the **Federal Register** at 82 FR 19722, on April 28, 2017. No comments were received.

DATES: Submit comments on or before August 7, 2017.

FOR FURTHER INFORMATION CONTACT: Ray Wynter, Federal Vehicle Policy Division, at 202-501-3802, or email ray.wynter@gsa.gov.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- *Regulations.gov*: <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link "Submit a Comment"

that corresponds with "Information Collection 3090-0118, Statement of Witness, SF 94." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 3090-0118, Statement of Witness, SF 94" on your attached document.

- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Sosa/IC 3090-0118, Statement of Witness, SF 94.

Instructions: Please submit comments only and cite Information Collection 3090-0118, Statement of Witness, SF 94, in all correspondence related to this collection. Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

SUPPLEMENTARY INFORMATION:

A. Purpose

GSA is requesting the Office of Management and Budget (OMB) to review and approve a reinstatement, with change, to information collection, 3090-0118, Statement of Witness, SF 94. The forms are used by all Federal agencies to report accident information involving U.S. Government motor vehicles.

B. Annual Reporting Burden

Respondents: 874.
Responses per Respondent: 1.
Total Annual Responses: 874.
Hours per response: .333.
Total Burden Hours: 291.

C. Public Comment

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202-501-4755. Please cite OMB Control No. 3090-0118,

Statement of Witness, SF 94, in all correspondence.

Dated: June 29, 2017.

David A. Shive,

Chief Information Officer.

[FR Doc. 2017-14183 Filed 7-5-17; 8:45 am]

BILLING CODE 6820-34-P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090-0290; Docket No. 2017-0001; Sequence No. 6]

Information Collection; System for Award Management Registration Requirements for Prime Grant Recipients

AGENCY: Office of the Integrated Award Environment, General Services Administration (GSA).

ACTION: Notice of request for comments regarding an extension to an existing OMB information collection.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve a renewal of the currently approved information collection requirement regarding the pre-award registration requirements for federal Prime Grant Recipients. The title of the approved information collection is Central Contractor Registration Requirements for Prime Grant Recipients. The updated information collection title, based on the migration of the Central Contractor Registration system to the System for Award Management in late July 2012, is System for Award Management Registration Requirements for Prime Grant Recipients.

DATES: Submit comments on or before September 5, 2017.

ADDRESSES: Submit comments identified by "Information Collection 3090-0290, System for Award Management Registration Requirements for Prime Grant Recipients" by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching the OMB control number 3090-0290. Select the link "Comment Now" that corresponds with "Information Collection 3090-0290, System for Award Management Registration Requirements for Prime Grant Recipients". Follow the instructions provided on the screen. Please include your name, company name (if any), and "Information

Collection 3090-0290, System for Award Management Registration Requirements for Prime Grant Recipients" on your attached document.

- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Sosa/IC 3090-0290.

Instructions: Please submit comments only and cite Information Collection 3090-0290, System for Award Management Registration Requirements for Prime Grant Recipients, in all correspondence related to this collection. Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Goode, Program Manager, IAE Business Operations Division, at telephone number 703-605-2175; or via email at nancy.goode@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Purpose

This information collection requires information necessary for prime applicants and recipients, excepting individuals, of Federal grants to register in the System for Award Management (SAM) and maintain an active SAM registration with current information at all times during which they have an active Federal award or an application or plan under consideration by an agency pursuant to 2CFR Subtitle A, Chapter I, and Part 25 (75 FR 5672). This facilitates prime awardee reporting of sub-award and executive compensation data pursuant to the Federal Funding Accountability and Transparency Act (Pub. L. 109-282, as amended by section 6202(a) of Pub. L. 110-252). This information collection requires that all prime grant awardees, subject to reporting under the Transparency Act register and maintain their registration in SAM.

B. Annual Reporting Burden

Respondents: 177,960.
Responses per Respondent: 1.
Total annual responses: 177,960.
Hours per Response: 2.
Total Burden Hours: 355,920.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper

performance of functions of the System for Award Management Registration Requirements for Prime Grant Recipients, whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202-501-4755. Please cite OMB Control No. 3090-0290, System for Award Management Registration Requirements for Prime Grant Recipients, in all correspondence.

Dated: June 28, 2017.

David A. Shive,

Chief Information Officer.

[FR Doc. 2017-14185 Filed 7-5-17; 8:45 am]

BILLING CODE 6820-WY-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS- R-138, CMS-18F5 and CMS-10651]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed

information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by September 5, 2017.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address:

CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html>.

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to Paperwork@cms.hhs.gov.

3. Call the Reports Clearance Office at (410) 786-1326.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786-4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS-R-138 Medicare Geographic Classification Review Board Procedures and Criteria
CMS-18F5 Application for Hospital Insurance and Supporting Regulations

CMS-10651 CMS Tribal Long Term Services and Supports (LTSS) Program Survey

Under the PRA (44 U.S.C. 3501-3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare Geographic Classification Review Board Procedures and Criteria; *Use:* During the first few years of IPPS, hospitals were paid strictly based on their physical geographic location concerning the wage index (Metropolitan Statistical Areas (MSAs)) and the standardized amount (rural, other urban, or large urban). However, a growing number of hospitals became concerned that their payment rates were not providing accurate compensation. The hospitals argued that they were not competing with the hospitals in their own geographic area, but instead that they were competing with hospitals in neighboring geographic areas. At that point, Congress enacted Section 1886(d)(10) of the Act which enabled hospitals to apply to be considered part of neighboring geographic areas for payment purposes based on certain criteria. The application and decision process is administered by the MGCRB which is not a part of CMS so that CMS could not be accused of any untoward action. However, CMS needs to remain apprised of any potential payment changes. Hospitals are required to provide CMS with copy of any applications that they made to the MGCRB. CMS also developed the guidelines for the MGCRB that were the interim final issue of the **Federal Register**, and must ensure that the MGCRB properly applied the guidelines. This check and balance

process also contributes to limiting the number of hospitals that ultimately need to appeal their MGCRB decisions to the CMS Administrator. *Form Number:* CMS-R-138 (OMB control number: 0938-0573); *Frequency:* Occasionally; *Affected Public:* Businesses or other for-profits and Not-for-profit institutions; *Number of Respondents:* 300; *Total Annual Responses:* 300; *Total Annual Hours:* 300. (For policy questions regarding this collection contact Noel Manlove at 410-786-5161.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Application for Hospital Insurance and Supporting Regulations; *Use:* Individuals who are already entitled to retirement or disability benefits under Social Security or Railroad Retirement Board (RRB) benefits are automatically entitled to premium-free Medicare Hospital Insurance (Part A) when they attain age 65 or reach the 25th month of disability benefit entitlement. These individuals do not file a separate application for Medicare Part A because their application for Social Security or RRB benefits is also an application for Part A. The form is for individuals who are not eligible for Social Security for RRB benefits, but may qualify for premium-free Medicare Part A based on certain requirements outlined in § 406.11 and 406.15 or for certain disabled individuals who may enroll in premium Medicare Part A based on certain requirements outlined in § 406.20. Individuals may also choose to enroll in Medicare Part B at the same time they apply for Medicare Part A. *Form Number:* CMS-18F5 (OMB control number: 0938-0251); *Frequency:* Once; *Affected Public:* Individuals or households; *Number of Respondents:* 51,000; *Total Annual Responses:* 51,000; *Total Annual Hours:* 29,580. (For policy questions regarding this collection contact Carla Patterson at 410-786-8911.)

3. *Type of Information Collection Request:* New collection (request for a new OMB control number); *Title of Information Collection:* CMS Tribal Long Term Services and Supports (LTSS) Program Survey; *Use:* The Survey will provide CMS with an inventory of LTSS programs for older adults or individuals with disabilities managed by American Indian and Alaska Native (AI/AN) tribes. Information on tribal LTSS programs has previously been gathered through publicly available data via online research. However, not all of the information, including program contact

information and program focus, are regularly available online as tribal Web sites are not updated frequently. Therefore, the survey will enable the collection of the most accurate information possible.

The respondents include 424 LTSS programs run by AI/AN tribes. Once the survey has been conducted, CMS will feature the survey data, specifically a list of AI/AN managed LTSS programs, online on *CMS.gov*. The dissemination of survey data on *CMS.gov* will allow tribal communities and the general public to access this important data. Documentation of these programs will support sharing of LTSS best practices and innovative models employed in Indian Country. CMS will use the survey data to generate further content on LTSS in Indian Country, including literature reviews and reports on best practices.

Form Number: CMS-10651 (OMB control number: 0938-TBD); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 425; *Total Annual Responses:* 425; *Total Annual Hours:* 106. (For policy questions regarding this collection contact John Johns at 410-786-7253).

Dated: June 29, 2017.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2017-14109 Filed 7-5-17; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Advisory Council on Alzheimer's Research, Care, and Services; Meeting

AGENCY: Assistant Secretary for Planning and Evaluation, HHS.

ACTION: Notice of meeting.

SUMMARY: This notice announces the public meeting of the Advisory Council on Alzheimer's Research, Care, and Services (Advisory Council). The Advisory Council provides advice on how to prevent or reduce the burden of Alzheimer's disease and related dementias on people with the disease and their caregivers. The Advisory Council will spend the morning discussing information gaps across the three areas of research, clinical care, and long term services and supports. There will also be a presentation on the recently released National Academy of Sciences, Engineering, and Medicine (NASEM) report on preventing cognitive decline. Additional presentations in the

afternoon will include a presentation on planning and progress towards the October Care and Services Summit and federal workgroup updates.

DATES: The meeting will be held on Friday, July 28, 2017 from 9:00 a.m. to 5:00 p.m. EDT.

ADDRESSES: The meeting will be held in Room 800 in the Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

Comments: Time is allocated on the agenda in the afternoon to hear public comments. The time for oral comments will be limited to two (2) minutes per individual. In lieu of oral comments, formal written comments may be submitted for the record to Rohini Khillan, ASPE, 200 Independence Avenue SW., Room 424E, Washington, DC 20201. All comments should be submitted to napa@hhs.gov for the record and to share with the Advisory Council by July 21, 2017. Those submitting comments should identify themselves and any relevant organizational affiliations.

FOR FURTHER INFORMATION CONTACT:

Rohini Khillan (202) 690-5932, rohini.khillan@hhs.gov. Note: Seating may be limited. Those wishing to attend the meeting must send an email to napa@hhs.gov and put "July 28 Meeting Attendance" in the Subject line by Tuesday, July 18, 2017 so that their names may be put on a list of expected attendees and forwarded to the security officers the Humphrey Building. Any interested member of the public who is a non-U.S. citizen should include this information at the time of registration to ensure that the appropriate security procedure to gain entry to the building is carried out. Although the meeting is open to the public, procedures governing security and the entrance to federal buildings may change without notice. If you wish to make a public comment, you must note that within your email.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act (5 U.S.C. App. 2, section 10(a)(1) and (a)(2)). Topics of the Meeting: The Advisory Council will spend the morning discussing information gaps across the three areas of research, clinical care, and long term services and supports. There will also be a presentation on the recently released National Academy of Sciences, Engineering, and Medicine (NASEM) report on preventing cognitive decline. Additional presentations in the afternoon will include a presentation on

October Care and Services Summit and federal workgroup updates.

Procedure and Agenda: This meeting is open to the public. Please allow 45 minutes to go through security and walk to the meeting room. The meeting will also be webcast at www.hhs.gov/live.

Authority: 42 U.S.C. 11225; Section 2(e)(3) of the National Alzheimer's Project Act. The panel is governed by provisions of Public Law 92-463, as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

Dated: June 27, 2017.

John R. Graham,

Acting Assistant Secretary for Planning and Evaluation.

[FR Doc. 2017-14156 Filed 7-5-17; 8:45 am]

BILLING CODE 4150-05-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier 0990-0421-30D]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, has submitted an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for review and approval. The ICR is for revision of the approved information collection assigned OMB control number 0990-0421, scheduled to expire on July 31, 2017. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public on this ICR during the review and approval period.

DATES: Comments on the ICR must be received on or before August 7, 2017.

ADDRESSES: Submit your comments to OIRA_submission@omb.eop.gov or via facsimile to (202) 395-5806.

FOR FURTHER INFORMATION CONTACT: Sherrette Funn, Sherette.Funn@hhs.gov or (202) 795-7714.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the document identifier 0990-0421-30D for reference.

Information Collection Request Title: ASPE Generic Clearance for the

Collection of Qualitative Research and Assessment.

OMB No.: 0990-0421.

Abstract: The Office of the Assistant Secretary for Planning and Evaluation (ASPE) is requesting an extension for their generic clearance for purposes of conducting qualitative research. ASPE conducts qualitative research to gain a better understanding of emerging health and human services policy issues, develop future intramural and extramural research projects, and to ensure HHS leadership, agencies and offices have recent data and information to inform program and policy decision-making. ASPE is requesting approval for at least four types of qualitative research which include, but are not limited to: (a) Interviews, (b) focus groups, (c) questionnaires, and (d) other qualitative methods.

ASPE’s mission is to advise the Secretary of the Department of Health and Human Services on policy development in health, disability, human services, data, and science, and provides advice and analysis on economic policy. ASPE leads special initiatives, coordinates the Department’s evaluation, research and demonstration activities, and manages cross-Department planning activities such as

strategic planning, legislative planning, and review of regulations. Integral to this role, ASPE will use this mechanism to conduct qualitative research, evaluation, or assessment, conduct analyses, and understand needs, barriers, or facilitators for HHS-related programs.

ASPE is requesting comment on the burden for qualitative research aimed at understanding emerging health and human services policy issues. The goal of developing these activities is to identify emerging issues and research gaps to ensure the successful implementation of HHS programs. The participants may include health and human services experts; national, state, and local health or human services representatives; public health, human services, or healthcare providers; and representatives of other health or human services organizations. The increase in burden from 747 in 2014 to 1,500 respondents in 2017 reflects an increase in the number of research projects conducted over the estimate in 2014.

Need and Proposed Use of the Information: The information collected for qualitative policy research and assessment will be used by ASPE to develop future intramural and extramural research projects and to

shape emerging health and human services policy issues for HHS leadership, agencies, and offices. The end purpose is to obtain broad and diverse perspectives on public health, human service, and health care issues to understand emerging issues, promising practices by innovative programs or organizations funded by HHS, or examining health or human service policy issues that have as yet gone unanswered or need further examination. Additionally, ASPE will collect, analyze, and interpret information gathered through this generic clearance to identify strengths and weaknesses of current programs, policies, and services.

Likely Respondents: Respondents have typically been stakeholders from the health and human services fields such as state health officers, human service professionals, groups that represent health or human services interests or populations, individual experts in the fields of health, human services, science, data, or other relevant professions, and other individuals and groups relevant to the work conducted by ASPE and HHS.

The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Health or Human Services Stakeholder	2,000	1	1	2,000
Total	2,000	1	1	2,000

Terry S. Clark,

Asst. Information Collection Clearance Officer.

[FR Doc. 2017-14211 Filed 7-5-17; 8:45 am]

BILLING CODE 4150-05-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Research Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

Notice is hereby given that on June 22, 2017, the Department of Health and Human Services (HHS) took final action in the following case:

Frank Sauer, Ph.D., University of California, Riverside: Based on evidence and findings of an investigation

conducted by the University of California, Riverside (UCR), the Office of Research Integrity’s (ORI’s) review of UCR’s Research Misconduct Investigation Report, the Report of Investigation by the National Science Foundation (NSF) Office of Inspector General, additional evidence obtained by ORI during its oversight review of UCR’s investigation, and independent analyses conducted as part of ORI’s oversight review, ORI found that Dr. Frank Sauer, former Associate Professor of Biochemistry, UCR, committed research misconduct in research supported by the following National Institute of General Medical Sciences (NIGMS), National Institutes of Health (NIH) grants:

- R01 GM073776
- R01 GM066204

Images that were falsified and/or fabricated were presented in the

following publications and grant applications.

- Gou, D., Rubalcava, M., Sauer, S., Mora-Bermúdez, F., Erdjument-Bromage, H., Tempst, P., Kremmer, E., & Sauer, F. “SETDB1 is involved in postembryonic DNA methylation and gene silencing in *Drosophila*.” *PLoS One* 5(5):e10581, 2010 (hereafter referred to as “*PLoS One* 2010”).

- Sanchez-Elsner, T., Gou, D., Kremmer, E., & Sauer, F. “Noncoding RNAs of trithorax response elements recruit *Drosophila* Ash1 to Ultrabithorax.” *Science* 311(5764):1118–1123, 2006 (hereafter referred to as “*Science* 2006”).

- Maile, T., Kwoczynski, S., Katzenberger, R.J., Wassarman, D.A., & Sauer, F. “TAF1 activates transcription by phosphorylation of serine 33 in histone H2B.” *Science* 304(5673):1010–

1014, 2004 (hereafter referred to as “*Science* 2004”).

- National Institute on Drug Abuse (NIDA), NIH, grant application R21 DA025703–01.
- National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), NIH, grant application R21 DK082631–01.
- NIDDK, NIH, grant application R01 DK082675–01.
- NIGMS, NIH, grant application R01 GM073776–06A1.
- NIGMS, NIH, grant application R01 GM085229–01.
- NIGMS, NIH, grant application R01 GM085303–01.
- NIGMS, NIH, grant application R01 GM085303–01A1.

ORI found by a preponderance of the evidence that the Respondent engaged in research misconduct by intentionally, knowingly, or recklessly falsifying and/or fabricating images in seven (7) submitted NIH grant application and three (3) published papers by manipulating, reusing, and falsely labeling images. Specifically, the Respondent falsified and/or fabricated images representing controls or experimental results for *in vitro* interactions between RNA and proteins, co-immunoprecipitation (“co-IP”) assays, histone methyltransferase (“HMT”) or kinase assays and related stained SDS–PAGE gels, and reverse transcription-polymerase chain reactions (“RT–PCR”) in the following grant applications and publications.

1. The image in Figure S4, *Science* 2006, representing the *in vitro* interactions between RNA and specific proteins, was used in similar assays to represent results with other sets of protein-RNA interactions in Figure 9, R21 DA025703–01, Figure 9, R21 DK082631–01, and Figure 9, R01 DK082675–01, and again in R01 GM085229–01, Figure 11C.

2. The image in Figure 1A, R01 GM085303–01, representing a co-IP assay from the *Drosophila* cell line S2, was manipulated and used in Figure 1B of the same grant application to represent a different co-IP assay from *Drosophila* embryonic extracts.

3. The image in Figure 8A, R01 GM085303–01A1, representing an SDS–PAGE gel for an *in vitro* HMT assay, was used previously in Figure 1d in a manuscript submitted to *Nature* in 2005 to represent an SDS–PAGE gel from an unrelated experiment for an ubiquitination assay.

4. The image in Figure 1E, R01 GM085303–01 and Figure 1D, R01 GM085303–01A1, representing stained SDS–PAGE for an HMT assay, was used in Figure 1b, *Nature* 419(6909):857–862,

2002, to represent an HMT assay with different experimental conditions, and also was used in Figure 1B, *Science* 2004, to represent stained PAGE for an *in vitro* kinase assay.

5. The image in Figure 1C, R01 GM085303–01 and Figure 1B, R01 GM085303–01A1, representing an HMT assay, was manipulated and used to represent an HMT assay with different experimental conditions in Figure 1E, R01 GM085303–01 and Figure 1D, R01 GM085303–01A1, and also was used to represent another unrelated HMT assay in Figure 2 (right panel) in R01 GM085303–01.

6. The image in Figure 2 (right panel) in R01 GM085303–01 representing an HMT assay was used in Figure 1B, *PLoS One* 2010 to represent an HMT assay with different experimental conditions.

7. The image in Figure 6B, R21 DA025703–01, Figure 11B, R01 GM085229–01, Figure 6B, R01 DK082675–01, and Figure 6B, R21 DK082631–01, all representing RT–PCR experiments for transcribed ncRNAs, was used in Figure 13, R21 DK082631–01 and Figure 13, R21 DA025703–01 to represent RT–PCR experiments for transcription for different ncRNAs.

8. The image in Figure 10C (right half) in R01 GM073776–06A1, representing transcription of endodermal genes from embryo bodies, was manipulated and used in Figure 10C (left half) in the same grant application to represent the transcription of mesodermal and ectodermal genes.

Science 311(5764):1118–1123, 2006 was retracted in: *Science* 344(6187):981, 2014. *Science* 304(5673):1010–1014, 2004 was retracted in: *Science* 344(6187):981, 2014. *Nature* 419(6909):857–862, 2002 was retracted in *Nature* 521(7550):110, 2015.

ORI issued a charge letter enumerating the above findings of research misconduct and proposing HHS administrative actions. Dr. Sauer subsequently requested a hearing before an Administrative Law Judge (ALJ) of the Departmental Appeals Board to dispute these findings. The parties filed cross-motions for summary judgment. On May 22, 2017, the ALJ recommended to the Assistant Secretary for Health that summary judgment be granted in favor of ORI. On June 22, 2017, the ALJ’s recommended decision became the final agency decision. Thus, the research misconduct findings set forth above became effective, and the following administrative actions have been implemented, beginning on June 22, 2017:

(1) Dr. Sauer is prohibited from serving in any advisory capacity to PHS including, but not limited to, service on

any PHS advisory committee, board, and/or peer review committee, or as a consultant, through July 27, 2020, the end date of his government-wide debarment, which was imposed by NSF; and

(2) ORI will send a notice to *PLoS* requesting retraction or correction of *PLoS One* 5(5):e10581, 2010 (PMID: 20498723) in accordance with 42 CFR 93.411(b).

FOR FURTHER INFORMATION CONTACT: Director, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (240) 453–8200.

Kathryn M. Partin,

Director, Office of Research Integrity.

[FR Doc. 2017–14075 Filed 7–5–17; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HHS Approval of Entities That Certify Medical Review Officers

AGENCY: Substance Abuse and Mental Health Services Administration, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The current version of the Department of Health and Human Services (HHS) Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines), effective on October 1, 2010, addresses the role and qualifications of Medical Review Officers (MROs) and HHS approval of entities that certify MROs. As required under Section 13.1(b) of the Mandatory Guidelines, this notice publishes a list of HHS approved MRO certification entities.

FOR FURTHER INFORMATION CONTACT: Sean J. Belouin, Pharm.D., CAPT, United States Public Health Service, Senior Pharmacology and Regulatory Policy Advisor, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 16N06D, Rockville, Maryland 20857; Telephone: (240) 276–2716; Email: sean.belouin@samhsa.hhs.gov.

SUPPLEMENTARY INFORMATION: Subpart M–Medical Review Officer (MRO), Section 13.1(b) of the Mandatory Guidelines, “Who may serve as an MRO?” states as follows: “Nationally recognized entities that certify MROs or subspecialty boards for physicians performing a review of Federal employee drug testing results that seek approval by the Secretary must submit their qualifications and a sample examination. Based on an annual

objective review of the qualifications and content of the examination, the Secretary shall publish a list in the **Federal Register** of those entities and boards that have been approved.”

HHS has completed its review of entities that certify MROs, in accordance with requests submitted by such entities to HHS.

The HHS Secretary approves the following MRO certifying entities that offer MRO certification through examination:

American Association of Medical Review Officers (AAMRO), P.O. Box 12873, Research Triangle Park, NC 27709, Phone: (800) 489-1839, Fax: (919) 490-1010, Email: bbrandon@aamro.com, Web site: <http://www.aamro.com/>.

Medical Review Officer Certification Council (MROCC), 3231 S. Halsted St, #167, Chicago, IL 60608, Phone: (847) 631-0599, Fax: (847) 483-1282, Email: mrocc@mrocc.org, Web site: <http://www.mrocc.org/>.

DATES: HHS approval is effective June 30, 2017.

Dated: June 30, 2017.

Thomas E. Price,

Secretary.

[FR Doc. 2017-14154 Filed 6-30-17; 4:15 pm]

BILLING CODE 4162-20-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Extension of Effective Date of NIH Policy on the Use of a Single Institutional Review Board for Multi-Site Research

The National Institutes of Health (NIH) is extending the effective date of the NIH Policy on the Use of a Single Institutional Review Board for Multi-Site Research from September 25, 2017 to January 25, 2018. A copy of the NIH Policy was published in the **Federal Register** on June 21, 2016 (81 FR 40325). See <https://www.gpo.gov/fdsys/pkg/FR-2016-06-21/pdf/2016-14513.pdf>. Guidance and Frequently Asked Questions to assist in the implementation of the policy are available at <https://osp.od.nih.gov/clinical-research/irb-review/>.

For further information contact the NIH Office of Science Policy, Telephone: 301-496-9838, Email: SingleIRBPolicy@mail.nih.gov.

Dated: June 29, 2017.

Lawrence A. Tabak,

Deputy Director, National Institutes of Health.

[FR Doc. 2017-14190 Filed 7-5-17; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, July 20, 2017, 11:00 a.m. to July 20, 2017, 02:00 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on June 28, 2017, 82 FR 29298.

The meeting will be held on July 28, 2017 instead of July 20, 2017. The meeting time remains the same. The meeting is closed to the public.

Dated: June 29, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017-14128 Filed 7-5-17; 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 Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel Research Resource for Human Organs and Tissues.

Date: July 26, 2017.

Time: 1:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Yuanna Cheng, MD, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7814, Bethesda, MD 20892, (301) 435-1195, Chengy5@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: June 29, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017-14127 Filed 7-5-17; 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 PAR17-122: NINDS Exploratory Clinical Trials.

Date: July 25, 2017.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Samuel C. Edwards, Ph.D., Chief, Brain Disorders and Clinical Neuroscience, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892, (301) 435-1246, edwardss@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel HIV/AIDS Point-of-care Applications.

Date: July 25, 2017.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Barna Dey, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, Bethesda, MD 20892, 301-451-2796, bdey@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Research Grant Program.

Date: July 26, 2017.

Time: 11:00 a.m. to 9:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Kenneth A. Roebuck, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7852, Bethesda, MD 20892, (301) 435-1166, roebuck@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel Member conflict: Exploratory/ Developmental Research.

Date: July 26, 2017.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mark P. Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301-435-1775, rubertm@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel Member conflict: AIDS and AIDS Related Research.

Date: July 27-28, 2017.

Time: 10:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Jingsheng Tuo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, Bethesda, MD 20892, 301-451-8754, tuo@nei.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: AIDS and Related Research.

Date: August 2, 2017.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Barna Dey, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, Bethesda, MD 20892, 301-451-2796, bdey@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 29, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017-14126 Filed 7-5-17; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; Identifying Experts in Prevention Science Methods To Include on NIH Review Panels, Office of Disease Prevention (NIH ODP)

AGENCY: National Institutes of Health, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, to provide opportunity for public comment on proposed data collection projects, the National Institutes of Health (NIH), Office of Disease Prevention (ODP) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Dr. Ranell Myles, Public Health Analyst, NIH Office of Disease Prevention, 6100 Executive Blvd., Room 2B03, Bethesda, MD 20892 or call (301) 827-5579 or email your request, including your address to prevention@mail.nih.gov. Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: Written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) 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, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Proposed Collection Title: Identifying Experts in Prevention Science Methods to Include on NIH Review Panels,—REVISION, Office of Disease Prevention (ODP), National Institutes of Health (NIH).

Need and Use of Information Collection: The Office of Disease Prevention (ODP) is the lead Office at the National Institutes of Health (NIH) responsible for assessing, facilitating, and stimulating research in disease prevention and health promotion, and disseminating the results of this research to improve public health. Prevention is preferable to treatment, and research on disease prevention is an important part of the NIH's mission. The knowledge gained from this research leads to stronger clinical practice, health policy, and community health programs. ODP collaborates with the NIH, other Department of Health and Human Services (DHHS) agencies, and other public and private partners to achieve the Office's mission and goals. One of our priorities is to promote the use of the best available methods in prevention research and support the development of better methods. One of our strategies is to help the Center for Scientific Review (CSR) identify experts in prevention science methods to include on their review panels. This will strengthen the panels and improve the quality of the prevention research supported by the NIH. To identify experts in prevention science methods, we worked with our contractor, IQ Solutions, Inc., to develop online software which will allow us to collect scientists' names, contact information, and resumes, as well as to have those scientists identify their level of

expertise in a variety of prevention science methods and content areas. The a collected with this software was used to create a web-based tool that CSR staff can use to identify scientists with expertise in specific prevention science methods and content areas for invitation to serve on one of the CSR review panels. This system will also be shared with review staff in the other Institutes and Centers at the NIH, as well as other

DHHS agencies, to use in the same way. Given our plans to create an automated system for reviewer information collection, we are now seeking OMB approval for a revision to our data collection plan.

This OMB revision request is for the collection of additional data not collected in the previously deployed online software and survey including additional study design topics, research

methods, content topics, as well as the geographic region of research of the investigator/respondent and the income category of the region/country in which the investigator's/respondent's research is performed.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 1,300.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hour
Investigators	3,120	1	25/60	1,300
Total .....	.....	3,120	.....	1,300

Dated: June 29, 2017.

Lawrence A. Tabak,
Principal Deputy Director, National Institutes of Health.

[FR Doc. 2017-14087 Filed 7-5-17; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276-1243.

Project: State Targeted Response to the Opioid Crisis (Opioid STR) Evaluation—NEW

The Substance Abuse and Mental Health Services Administration (SAMHSA) recently awarded 57 grants to states and territories to help address the national opioid crisis by increasing access to treatment, reducing unmet treatment needs, and reducing opioid overdose related deaths through the provision of prevention, treatment, and recovery activities for opioid use disorder (OUD).

SAMHSA's Center for Behavioral Health Statistics and Quality (CBHSQ), will be conducting a cross-site evaluation of the Opioid STR grant program. The proposed data collection

is necessary to evaluate how the Opioid STR state/territory grantees plan and implement prevention, treatment and recovery services. Additionally, a subset of communities/programs will be selected to participate in supplemental evaluation activities designed to provide detailed information related to the implementation of services at the program/community level, as well as the impacts of the program on client outcomes.

SAMHSA has developed a set of interview protocols and survey measures that will collect information from all state/territory grantees (57), and subset (up to 20) of programs/communities that provide services and activities funded by the grant. In addition, SAMHSA's Performance Accountability and Reporting System (SPARS) will be used to collect individual-level data using CSAT's Government Performance and Results Act (GPRA) for Discretionary Grant Programs Client Outcome Measure (OMB No. 0930-0208) from individuals receiving services from participating communities/programs.

Specific data collected as part of the Opioid STR evaluation include the following:

State Survey: The State Survey will be administered to State Project Directors/Program Managers to collect information about the state/territory's current, planned, and implemented activities to address opioid misuse using Opioid STR funding. State Surveys will be administered three (3) times.

State Interview: The State Interview Protocol will be used to collect information from the State Project Director/Program Manager during phone interviews at two (2) time points. Interviews will collect information

about the state's substance abuse treatment systems prior to STR funding, the types of activities states plan to implement with STR funding, challenges and successes when implementing these activities, and plans for sustaining the activities.

Community/Program Survey: The Community/Program Survey will be administered to Community/Program Directors or Program Managers to collect information about the community/program's readiness to implement activities that address opioid misuse, their actual implementation of activities to address opioid misuse, and initial outcomes of their implemented activities. Community/Program Survey will be administered three (3) times.

Community/Program Director/Manager Interview Protocol: The Community/Program Director/Manager Interview Protocol will be used to collect information from Community/Program Directors or Program Managers during in-person site visits to each participating community/program. Interviews will collect in-depth information about the community's/program's implementation of activities to address opioid misuse using Opioid STR funding, and factors facilitating and impeding the implementation of STR-funded activities. Community/Program Director/Manager Interviews will be conducted two (2) times.

Community/Program Data Manager Interview Protocol: The Community/Program Data Manager Interview Protocol will be used to collect information from Data Managers during in-person site visits to each participating community/program. Interviews will collect in-depth information about how the program used community/program-level data to

inform the development and implementation of STR activities and how data is being used to monitor the activities. Community/Program Data Manager Interviews will be conducted two (2) times.

Community/Program Clinical Staff Interview Protocol: The Community/Program Clinical Staff Interview Protocol will be used to collect

information from up to four (4) clinical staff members at each participating community/program site. Interviews will collect information on the factors that have facilitated and impeded past activities to address opioid misuse, and clinicians' experiences implementing STR-funded activities. Community/Program Clinical Staff Interviews will be conducted two (2) times.

CSAT GPRA Client Outcome Measure: The CSAT GPRA Client Outcome Measure will be used with each client served in the Communities/Programs to collect data about client's progress as a result of receiving services. This data will be collected at three (3) time intervals: intake to services, 6 month follow-up, and at discharge.

ESTIMATES OF ANNUALIZED HOUR BURDEN FOR THE OPIOID STR MEASURES

SAMHSA program instruments	Number of respondents	Responses per respondent	Total responses	Hours per response	Total annual burden hours
State-Level Evaluation (All STR-funded state/territories)					
State Survey—Baseline	57	1	57	4	228
State Survey—Time 2	57	1	57	4	228
State Survey—Time 3	57	1	57	4	228
State Interview—Time 1	57	1	57	1.5	85.5
State Interview—Time 2	57	1	57	1.5	85.5
Community/Program-Level Evaluation (Up to 20 funded programs/communities)					
Community/Program Director Interview—Baseline	20	1	20	1.5	30
Community/Program Clinical Staff Interview—Baseline	80	1	80	1.5	120
Community/Program Data Manager Interview—Baseline	20	1	20	1.5	30
Community/Program Director Interview—Time 2	20	1	20	1.5	30
Community/Program Clinical Staff Interview—Time 2	80	1	80	1.5	120
Community/Program Data Manager Interview—Time 2	20	1	20	1.5	30
Community/Program Director Survey—Baseline	20	1	20	3	60
Community/Program Director Survey—Time 2	20	1	20	3	60
Community/Program Director Survey—Time 3	20	1	20	3	60
Individual clients					
Baseline/Intake Interview	1,000	1	1,000	.52	520
Follow-up Interview ¹	800	1	800	.52	416
Discharge Interview ²	520	1	520	.52	270.4
Total	2,905		2,905		2,601

Notes:

- 1. It is estimated that 80% of baseline clients will complete this interview.
- 2. It is estimated that 52% of baseline clients will complete this interview.

Written comments and recommendations concerning the proposed information collection should be sent by August 7, 2017 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: OIRA_Submission@omb.eop.gov. Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202-395-7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory

Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,
Statistician.

[FR Doc. 2017-14083 Filed 7-5-17; 8:45 am]

BILLING CODE 4162-20-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the

Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276-1243.

Project: State Targeted Response to the Opioid Crisis Grant Program Reports—NEW

The Substance Abuse and Mental Health Services Administration (SAMHSA) is authorized under Section 1003 of the 21st Century Cures Act, as amended, to support a grant program, for up to 2 years, that addresses the supplemental activities pertaining to opioids currently undertaken by the state agency or territory and will support a comprehensive response to the opioid epidemic. The State Targeted Response to the Opioid Crisis Grant (Opioid STR) program addresses Healthy People 2020, Substance Abuse Topic Area HP 2020-SA. The primary

purpose of Opioid STR is to address the opioid crisis by increasing access to treatment, reducing unmet treatment need, and reducing opioid overdose related deaths through the provision of prevention, treatment and recovery activities for opioid use disorder (OUD) (including prescription opioids as well as illicit drugs such as heroin).

There are 57 (states and jurisdictions) award recipients in this program. All funded states and jurisdictions will be

asked to report on their implementation and performance through an online data collection system. Award recipients will report performance on the following measures specific to this program: Number of people who receive OUD treatment, number of people who receive OUD recovery services, number of providers implementing medication-assisted treatment, and the number of OUD prevention and treatment providers trained, to include NPs, PAs,

as well as physicians, nurses, counselors, social workers, case managers, etc. This information will be collected at the mid-point and conclusion of each grant award year.

Additionally, each award recipient will describe the purposes for which the grant funds received were expended and the activities under the program, and the ultimate recipients of amounts provided to the grantee in the grants.

ANNUALIZED ESTIMATED BURDEN HOURS FOR THE PROGRESS REPORT

Respondent	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
State and Jurisdictions	57	2	114	8.0	912

Link for the tables:
<https://www.samhsa.gov/sites/default/files/grants/pdf/ti-17-014-tables.pdf>

Written comments and recommendations concerning the proposed information collection should be sent by August 7, 2017 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: OIRA_Submission@omb.eop.gov. Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202-395-7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,
 Statistician.

[FR Doc. 2017-14104 Filed 7-5-17; 8:45 am]

BILLING CODE 4162-20-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Coast Guard

[Docket No. USCG-2017-0618]

National Boating Safety Advisory Council—Input To Support Regulatory Reform of Coast Guard Regulations—New Task

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Notice of new task assignment for the National Boating Safety Advisory Council (NBSAC); notice of teleconference meeting.

SUMMARY: The U.S. Coast Guard is issuing a new task to the National Boating Safety Advisory Council (NBSAC). The U.S. Coast Guard is asking NBSAC to help the agency identify existing regulations, guidance, and collections of information (that fall within the scope of the Council's charter) for possible repeal, replacement, or modification. This tasking is in response to the issuance of Executive Orders 13771, "Reducing Regulation and Controlling Regulatory Costs; 13777, "Enforcing the Regulatory Reform Agenda;" and 13783, "Promoting Energy Independence and Economic Growth." The full Council is scheduled to meet by teleconference on July 21, 2017, to discuss this tasking. This teleconference will be open to the public. The U.S. Coast Guard will consider NBSAC recommendations as part of the process of identifying regulations, guidance, and collections of information to be repealed, replaced, or modified pursuant to the three Executive Orders discussed above.

DATES: The full Council is scheduled to meet by teleconference on July 21, 2017, from 11 a.m. to noon EST. Please note that this teleconference may adjourn early if the Council has completed its business.

ADDRESSES: To join the teleconference or to request special accommodations, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section no later than 1 p.m. on July 14, 2017. The number of teleconference lines is limited and will be available on a first-come, first-served basis.

Instructions: Submit comments on the task statement at any time, including orally at the teleconference, but if you want Council members to review your comments before the teleconference, please submit your comments no later than July 14, 2017. You must include the words "Department of Homeland Security" and the docket number for this action. Written comments may also be submitted using the Federal e-Rulemaking Portal at <http://www.regulations.gov>. If you encounter technical difficulties with comment submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Comments received will be posted without alteration at <http://www.regulations.gov>, including any personal information provided. You may review *Regulations.gov's* Privacy and Security Notice at <https://www.regulations.gov/privacyNotice>.

Docket Search: For access to the docket or to read documents or comments related to this notice, go to <http://www.regulations.gov>, insert "USCG-2017-0618" in the Search box, press Enter, and then click on the item you wish to view.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Ludwig, Alternate Designated Federal Officer of the National Boating Safety Advisory Council, telephone (202) 372-1061, or email at jeffrey.a.ludwig@uscg.mil.

SUPPLEMENTARY INFORMATION:

New Task to the Council

The U.S. Coast Guard is issuing a new task to NBSAC to provide recommendations on whether existing regulations, guidance, and information collections (that fall within the scope of the Council's charter) should be

repealed, replaced, or modified. NBSAC will then provide advice and recommendations on the assigned task and submit a final recommendation report to the U.S. Coast Guard.

Background

On January 30, 2017, President Trump issued Executive Order 13771, "Reducing Regulation and Controlling Regulatory Costs." Under that Executive Order, for every one new regulation issued, at least two prior regulations must be identified for elimination, and the cost of planned regulations must be prudently managed and controlled through a budgeting process. On February 24, 2017, the President issued Executive Order 13777, "Enforcing the Regulatory Reform Agenda." That Executive Order directs agencies to take specific steps to identify and alleviate unnecessary regulatory burdens placed on the American people. On March 28, 2017, the President issued Executive Order 13783, "Promoting Energy Independence and Economic Growth." Executive Order 13783 promotes the clean and safe development of our Nation's vast energy resources, while at the same time avoiding agency actions that unnecessarily encumber energy production.

When implementing the regulatory offsets required by Executive Order 13771, each agency head is directed to prioritize, to the extent permitted by law, those regulations that the agency's Regulatory Reform Task Force identifies as outdated, unnecessary, or ineffective in accordance with Executive Order 13777. As part of this process to comply with all three Executive Orders, the U.S. Coast Guard is reaching out through multiple avenues to interested individuals to gather their input about what regulations, guidance, and information collections, they believe may need to be repealed, replaced, or modified. On June 8, 2017, the U.S. Coast Guard issued a general notice in the **Federal Register** requesting comments from interested individuals regarding their recommendations, 82 FR 26632. In addition to this general solicitation, the U.S. Coast Guard also wants to leverage the expertise of its Federal Advisory Committees and is issuing similar tasks to each of its Committees. A detailed discussion of each of the Executive orders and information on where U.S. Coast Guard regulations, guidance, and information collections are found is in the June 8th notice.

The Task

NBSAC is tasked to:

Provide input to the U.S. Coast Guard on all existing regulations, guidance, and information collections that fall within the scope of the Council's charter.

1. One or more subcommittees/working groups, as needed, will be established to work on this tasking in accordance with the Council charter and bylaws. The subcommittee(s) shall terminate upon the approval and submission of a final recommendation to the U.S. Coast Guard from the parent Council.

2. Review regulations, guidance, and information collections and provide recommendations whether an existing rule, information collection, or guidance should be repealed, replaced or modified. If the Council recommends modification, please provide specific recommendations for how the regulation, information collection, or guidance should be modified.

Recommendations should include an explanation on how and to what extent repeal, replacement or modification will reduce costs or burdens to industry and the extent to which risks to health or safety would likely increase.

a. Identify regulations, guidance, or information collections that potentially impose the following types of burden on the industry:

i. Regulations, guidance, or information collections imposing administrative burdens on the industry.

ii. Regulations, guidance, or information collections imposing burdens in the development or use of domestically produced energy resources. "Burden," for the purposes of compliance with Executive Order 13783, means "to unnecessarily obstruct, delay, curtail, or otherwise impose significant costs on the siting, permitting, production, utilization, transmission, or delivery of energy resources."

b. Identify regulations, guidance, or information collections that potentially impose the following types of costs on the industry:

i. Regulations, guidance, or information collections imposing costs that are outdated (such as due to technological advancement), or are no longer necessary.

ii. Regulations, guidance, or information collections imposing costs which are no longer enforced as written or which are ineffective.

iii. Regulations, guidance, or information collections imposing costs tied to reporting or recordkeeping requirements that impose burdens that exceed benefits. Explain why the reporting or recordkeeping requirement is overly burdensome, unnecessary, or how it could be modified.

c. Identify regulations, guidance, and information collections that the Council believes have led to the elimination of jobs or inhibits job creation within a particular industry.

3. All regulations, guidance, and information collections, or parts thereof, recommended by the Council should be described in sufficient detail (by section, paragraph, sentence, clause, etc.) so that it can readily be identified. Data (quantitative or qualitative) should be provided to support and illustrate the impact, cost, or burden, as applicable, for each recommendation. If the data is not readily available, the Council should include information as to how such information can be obtained either by the Council or directly by Coast Guard.

Public Participation

All meetings associated with this tasking, both full Council meetings and subcommittee/working groups, are open to the public. A public oral comment period will be held during the July 21, 2017, teleconference. Public comments or questions will be taken at the discretion of the Designated Federal Officer; commenters are requested to limit their comments to 3 minutes. Please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section, to register as a commenter. Subcommittee meetings held in association with this tasking will be announced as they are scheduled through notices posted to <http://homeport.uscg.mil/NBSAC> and uploaded as supporting documents in the electronic docket for this action, [USCG-2017-0618], at Regulations.gov.

J.F. Williams,

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

[FR Doc. 2017-14255 Filed 7-5-17; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent To Request Extension From OMB of One Current Public Collection of Information: Critical Facility Information of the Top 100 Most Critical Pipelines

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-Day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR),

Office of Management and Budget (OMB) control number 1652-0050, abstracted below that we will submit to OMB for an extension in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. In accordance with the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act), which required TSA to develop and implement a plan to inspect critical pipeline systems, TSA is seeking to continue its collection of critical facility security information.

DATES: Send your comments by September 5, 2017.

ADDRESSES: Comments may be emailed to TSAPRA@dhs.gov or delivered to the TSA PRA Officer, Office of Information Technology (OIT), TSA-11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598-6011.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh at the above address, or by telephone (571) 227-2062.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be available at <http://www.reginfo.gov> upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

OMB Control Number 1652-0050; Critical Facility Information of the Top 100 Most Critical Pipelines: The 9/11 Act specifically tasked TSA to develop and implement a plan for reviewing the pipeline security plans and an

inspection of the critical facilities of the 100 most critical pipeline systems.¹ Pipeline operators have determined which facilities qualify as critical facilities based on guidance and criteria set forth in the TSA Pipeline Security Guidelines published in April 2011. To execute the 9/11 Act mandate, TSA visits critical pipeline facilities and collects site-specific information from pipeline operators on facility security policies, procedures, and physical security measures.

TSA is seeking OMB approval to continue to collect facility security information during the site visits using a Critical Facility Security Review (CFSR) form. The CFSR will look at individual pipeline facility security measures and procedures.² This collection is voluntary. Information collected from the reviews will be analyzed and used to determine strengths and weaknesses at the nation's critical pipeline facilities, areas to target for risk reduction strategies, pipeline industry implementation of the voluntary guidelines, and the potential need for regulations in accordance with the 9/11 Act provision previously cited.

TSA is also seeking OMB approval to continue its follow up procedure with pipeline operators on their implementation of security improvements and recommendations made during facility visits. During critical facility visits, TSA documents and provides recommendations to improve the security posture of the facility. TSA intends to continue to follow up with pipeline operators via email on their status toward implementation of the recommendations made during the critical facility visits. The follow up will be conducted between approximately 12 and 24 months after the facility visit.

The information provided by operators for each information collection is Sensitive Security Information (SSI), and it will be protected in accordance with procedures meeting the transmission, handling, and storage requirements of SSI set forth in 49 CFR parts 15 and 1520.

The annual burden for the approval of the information collection related to the CFSR form is estimated to be 320 hours.

¹ See sec. 1557 of the 9/11 Act (Pub. L. 110-53, 121 Stat. 266, 475, Aug. 3, 2007), codified at 6 U.S.C. 1207.

² The CFSR differs from a Corporate Security Review (CSR) conducted by TSA in another pipeline information collection that looks at corporate or company-wide security management plans and practices. See OMB Control No. 1652-0056 at <https://www.reginfo.gov> for the PRA approval of information collection for pipeline CSRs.

TSA will conduct a maximum of 80 facility reviews each year, with each review taking approximately 4 hours (80 × 4). This is a change from the 90 facility reviews that was previously conducted.

The annual burden for the approval of the information collection related to the follow up on the recommendations made to facility operators is estimated to be 400 hours. TSA estimates each operator will spend approximately 5 hours to submit a response to TSA regarding its voluntary implementation of security recommendations made during critical facility visits. If a maximum of 80 critical facilities are reviewed each year, and TSA follows up with each facility operator between approximately 12 and 24 months following the visit, the total annual burden is 400 (80 × 5) hours.

The estimated number of respondents will be 80 for the CFSR form and 80 for the recommendations follow-up, for a total of 160 respondents. The total estimated burden is 720 hours annually, 320 hours for the CFSR form, plus 400 hours for the recommendations follow-up procedure.

Consistent with the requirements of Executive Order (EO) 13771, Reducing Regulation and Controlling Regulatory Costs, and EO 13777, Enforcing the Regulatory Reform Agenda, TSA is also requesting comments on the extent to which this request for information could be streamlined to reduce this burden.

Dated: June 30, 2017.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2017-14159 Filed 7-5-17; 8:45 am]

BILLING CODE 9110-05-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5997-N-38]

30-Day Notice of Proposed Information Collection: Exigent Health and Safety Deficiency Correction Certification

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* August 7, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax:202-395-5806, Email: OIRA.Submission@omb.eop.gov

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette.Pollard@hud.gov, or telephone 202-402-3400. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on December 20, 2016 at 81 FR 92843.

A. Overview of Information Collection

Title of Information Collection: Exigent Health and Safety Deficiency Correction Certification.

OMB Approval Number: 2577-0241.

Type of Request: Revision of currently approved collection.

Form Number: None.

Description of the need for the information and proposed use: HUD's Uniform Physical Condition Standards (UPCS) regulation (24 CFR part 5, subpart G) provides that HUD housing must be decent, safe, sanitary, and in good repair. The UPCS regulation also provides that all area and components of the housing must be free of health and safety hazards. HUD conducts physical inspections of the HUD-funded housing to determine if the UPCS standards are being met. Pursuant to the UPCS inspection protocol, at the end of the inspection (or at the end of each day of a multi-day inspection) the inspector provides the property representative with a copy of the "Notification of Exigent and Fire Safety Hazards Observed" form. Each exigent health and safety (EHS) deficiency that the inspector observed that day is listed on the form. The property representative signs the form acknowledging receipt. PHAs are to correct/remedy/act to abate

all EHS deficiencies within 24 hours. Using the electronic format, PHAs are to notify HUD within three business days of the date of inspection, which is the date the PHA was provided notice of these deficiencies, that the deficiencies were corrected/remedied/acted on to abate within the prescribed time frames (24 CFR part 902).

Respondents: (i.e., affected public) Public Housing Agencies.

Estimated Number of Respondents: 3000.

Estimated Number of Responses: 971.

Frequency of Response: Once per year.

Average Hours per Response: .28 hours (approximately 17 minutes).

Total Estimated Burdens: 272.99.

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: June 29, 2017.

Colette Pollard,

*Department Reports Management Officer,
Office of the Chief Information Officer.*

[FR Doc. 2017-14179 Filed 7-5-17; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5997-N-37]

30-Day Notice of Proposed Information Collection: Home Equity Conversion Mortgage (HECM) Insurance Application for the Origination of Reverse Mortgages and Related Documents

AGENCY: Office of the Chief Information Officer, 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 comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* August 7, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax:202-395-5806, Email: OIRA.Submission@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette.Pollard@hud.gov, or telephone 202-402-3400. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on November 22, 2016 at 81 FR 83862.

A. Overview of Information Collection

Title of Information Collection: Home Equity Conversion Mortgage (HECM) Insurance Application for the Origination of Reverse Mortgages and Related Documents.

OMB Approval Number: 2502-0524.

Type of Request: Reinstatement, with change, of previously approved collection.

Form Number: HUD-92901, HUD-92902, HUD-92051, HUD-92561, HUD-92800.5B, HUD-92900-A, HUD-1, HUD-1a, Fannie Mae (FNMA)-1009, FNMA-1025, FNMA-1003, FNMA-1004, FNMA-1004c, FNMA-1073.

Description of the need for the information and proposed use: The Home Equity Conversion Mortgage (HECM) program is the Federal Housing Administration's (FHA) reverse mortgage program that enables seniors who have equity in their homes to withdraw a portion of the accumulated equity. The intent of the HECM Program is to ease the financial burden on elderly homeowners facing increased health, housing, and subsistence costs at a time of reduced income. The currently approved information collection is necessary to screen mortgage insurance applications to protect the FHA insurance fund and the interests of consumers and potential borrowers. Specific forms and related documents are needed to determine the eligibility of the borrower and proposed mortgage transaction for FHA's insurance endorsement. Form HUD-92902, Certificate of HECM Counseling has been revised to: (1) Include a property address line for purchase transactions, (2) remove the reference to 'HECM Saver' as current feature of the program, and (3) include a certification warning concerning the actions that may be taken against anyone who knowingly submits a false, fictitious, or fraudulent claim and the penalties of those actions.

Respondents (i.e. affected public): Business or other for profit.

Estimated Number of Respondents: 1,603.

Estimated Number of Responses: 80,000.

Frequency of Response: On occasion.

Average Hours per Response: 3.41 hours.

Total Estimated Burden: 11,366,400.

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: June 29, 2017.

Colette Pollard,

*Department Reports Management Officer,
Office of the Chief Information Officer.*

[FR Doc. 2017-14184 Filed 7-5-17; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5997-N-35]

30-Day Notice of Proposed Information Collection: Understanding Rapid Re-Housing Study

AGENCY: Office of the Chief Information Officer, 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 comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* August 7, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202-395-5806, Email: OIRA_Submission@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Anna_P_Guido@hud.gov or telephone 202-402-5535. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by

calling the toll-free Federal Relay Service at (800) 877-8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on February 7, 2017 at 82 FR 9591.

A. Overview of Information Collection

Title of Information Collection: Understanding Rapid Re-Housing Study.

OMB Approval Number: 2528—New.

Type of Request: New.

Form Number: No Forms.

Description of the need for the information and proposed use: Rapid Re-Housing (RRH) is an increasingly popular approach for using the homeless assistance system to reduce and end homelessness in communities across the United States. Several studies have examined RRH program outcomes. HUD's Rapid Re-Housing for Homeless Families Demonstration Program report and the U.S. Department of Veterans Affairs' research brief Impact and Performance of the Supportive Services for Veteran Families (SSVF) Program: Results from the FY 2013 Program Year measured RRH outcomes, and RRH was one of the active interventions tested in the Family Options Study (FOS). Several local studies have also assessed RRH. Collectively, the research conducted to date has produced varied evidence of the outcomes for participants receiving this type of assistance.

The Understanding Rapid Re-Housing Study provides an opportunity to (1) synthesize existing research on RRH programs, (2) extend the analysis of data from the Family Options Study (2016), (3) provide a detailed examination of all rapid re-housing programs nationwide, and (4) conduct qualitative research with a small sample of families and individuals who receive RRH. The first two objectives will utilize existing literature and data that have already been collected. To examine the nation's RRH programs, we will rely on currently existing Annual Program Reports (APRs) from local Continuums of Care (CoCs) and administer a web-based survey to RRH programs. To accomplish the fourth objective, we will conduct in-depth interviews and ethnographic research with households. This notice announces HUD's intent to collect information through the following

methods: Study investigators (from Abt Associates) will administer a program-level web-based survey, which will include two separate sets of questions—a short set of system-level questions for CoC program staff, and an in-depth set of questions for RRH program staff. The survey will be administered to all CoCs and RRH programs nationwide. To describe the program models in place, the use of progressive engagement, and strategies for RRH in tight rental markets, the study investigators will conduct in-depth telephone follow-up interviews with approximately 20 RRH programs. In addition, investigators will conduct one-time in-person in-depth interviews with a sample of six households in shelter who have been offered RRH but have not yet started to receive it, 16 households who are

receiving RRH assistance, and six households that have already transitioned from RRH to permanent housing. Finally, to understand their experiences both during RRH and once RRH assistance ends, and investigators will conduct ethnographic research with 16 households. This will include in-person interviews, household observations, quarterly check-ins, and the completion of housing journals.

Respondents: Information collection for the program-level web survey will involve program staff from all CoCs (approximately 400) and all RRH programs nationwide (approximately 2,400 programs). Approximately 20 RRH programs will be involved in the in-depth follow-up interviews. Information collection for the qualitative research

will affect approximately 28 households.

From the completed 28 interviews, study investigators will invite all 16 households receiving RRH to continue in the applied ethnographic component of the study (and we assume that 15 will complete the ethnographic research activities). Their one-time in-depth interviews will provide a baseline against which investigators will analyze data to be collected over the subsequent 15 months. Those data will include participant observation, housing journals, quarterly family updates, and two follow-up interviews.

Respondents (i.e., affected public): Continuum of Care Collaborative Applicants, rapid re-housing program directors, and participants of rapid re-housing programs.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Total burden hours	Hourly cost per response	Cost
Program Data Collection							
Web-based Program Survey—CoCs	400	1	400	0.33	133.30	\$34.07	\$4,541.53
Web-based Program Survey—RRH Programs	2,400	1	2,400	0.50	1,200.00	22.69	27,228.00
RRH In-depth Program Interviews	20	1	20	2.00	40.00	22.69	907.60
Participant Data Collection							
Understanding RRH Study Participation Consent Form	28	1	28	0.08	2.24	10.15	22.74
One-time RRH Program Participant Interviews	28	1	28	2.30	64.40	10.15	653.66
Understanding RRH Study Ethnography Participant Consent Form	16	1	16	0.08	1.28	10.15	12.99
Ethnographic Interviews and Housing Journals	16	2	32	3.50	112.00	10.15	1,136.80
RRH Household Observations	16	4	64	3.00	192.00	10.15	1,948.80
Quarterly RRH Household Updates	16	5	80	0.17	13.60	10.15	138.04
Total .....	.....	.....	3,068	.....	1,758.80	.....	36,590.16

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: June 21, 2017.

Anna P. Guido,

*Department Reports Management Officer,
Office of the Chief Information Officer.*

[FR Doc. 2017-14220 Filed 7-5-17; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service**

[Docket No. FWS-HQ-IA-2017-0033;
FXIA1671090000-178-FF09A30000]

**Endangered Species; Marine Mammal
Receipt of Applications for Permit**

AGENCY: Fish and Wildlife Service,
Interior.

ACTION: Notice of receipt of applications
for permit.

SUMMARY: We, the U.S. Fish and
Wildlife Service, invite the public to
comment on the following applications
to conduct certain activities with
endangered species, marine mammals,
or both. With some exceptions, the
Endangered Species Act (ESA) and
Marine Mammal Protection Act
(MMPA) prohibit activities with listed
species unless Federal authorization is
acquired that allows such activities.

DATES: We must receive comments or
requests for documents on or before
August 7, 2017.

ADDRESSES:

Submitting Comments: You may
submit comments by one of the
following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-HQ-IA-2017-0033.

- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS-HQ-IA-2017-0033; U.S. Fish and Wildlife Service Headquarters, MS: BPHC; 5275 Leesburg Pike, Falls Church, VA 22041-3803.

When submitting comments, please indicate the name of the applicant and the PRT# you are commenting on. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Comments section for more information).

Viewing Comments: Comments and materials we receive will be available for public inspection on <http://www.regulations.gov>, or by appointment, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays, at the U.S. Fish and Wildlife Service, Division of Management Authority, 5275 Leesburg Pike, Falls Church, VA 22041-3803; telephone 703-358-2095.

FOR FURTHER INFORMATION CONTACT:

Joyce Russell, Government Information Specialist, Division of Management Authority, U.S. Fish and Wildlife Service Headquarters, MS: IA; 5275 Leesburg Pike, Falls Church, VA 22041-

3803; telephone 703-358-2023;
facsimile 703-358-2280.

SUPPLEMENTARY INFORMATION:**I. Public Comment Procedures**

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **FOR FURTHER INFORMATION**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we

cannot guarantee that we will be able to do so.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), along with Executive Order 13576, “Delivering an Efficient, Effective, and Accountable Government,” and the President’s Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken. Under the MMPA, you may request a hearing on any MMPA application received. If you request a hearing, give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Service Director.

III. Permit Applications

We invite the public to comment on applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (16 U.S.C. 1531 *et seq.*; ESA) prohibits activities with listed species unless Federal authorization is acquired that allows such activities.

A. Endangered Species

Applicant: Morani River Ranch, Uvalde TX; PRT-49112A

The applicant requests a renewal to a captive-bred wildlife registration under 50 CFR 17.21(g) for barasingha (*Rucervus duvaucelii*), red lechwe (*Kobus leche*), Arabian oryx (*Oryx leucoryx*), and Eld’s Deer (*Rucervus eldii*), to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Houston Zoo, Inc., Houston, TX; PRT-19910C

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for Asian elephant (*Elephas maximus*) and Baird’s tapir (*Tapirus bairdii*) to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Busch Gardens, Tampa, FL; PRT-24014C

The applicant requests a captive-bred wildlife registration under 50 CFR

17.21(g) to enhance the propagation or survival of the following species: African slender-snouted crocodile (*Crocodylus cataphractus*), Asian elephant (*Elephas maximus*), cheetah (*Acinonyx jubatus*), Malayan tiger (*Panthera tigris corbetti*), western gorilla (*Gorilla gorilla*), Bornean orangutan (*Pongo pygmaeus*), red-fronted lemur (*Eulemur rufus*), mongoose lemur (*Eulemur mongoz*), ring-tailed lemur (*Lemur catta*), red-ruffed lemur (*Varecia rubra*), Cuban parrot (*Amazona leucocephala*), blue-throated macaw (*Ara glaucogularis*), and golden parakeet (*Guarouba guarouba*). This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Fossil Rim Wildlife Center, Glen Rose, TX; PRT-31693C

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) to enhance the propagation or survival of the following species: Cheetah (*Acinonyx jubatus*), Arabian oryx (*Oryx leucoryx*), maned wolf (*Chrysocyon brachyurus*), Przewalski's horse (*Equus przewalskii*), black-footed cat (*Felis nigripes*), red-crowned crane (*Grus japonensis*), and black rhino (*Diceros bicornis*). This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: The University of Alabama at Birmingham, Birmingham, AL; PRT-14503C

The applicant requests a permit to import biological samples from the wild and captive-born Asian elephant (*Elephas maximus*) for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 1-year period.

Applicant: The University of Alabama at Birmingham, Birmingham AL; PRT-15849C

The applicant requests a permit to import biological samples from the wild and captive-born Asian elephant (*Elephas maximus*) for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 1-year period.

B. Marine Mammal

Applicant: U.S. Fish Wildlife Service Marine Mammals Management, Anchorage, AK; PRT-039386

The applicant requests authorization to renew their permit to take Pacific walrus (*Odobenus rosmarus*) samples, conduct surveys, and import biological specimens for the purposes of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Offspring Films, Bristol, UK; PRT-29633C

The applicant requests a permit to film up to 100 Southern sea otters (*Enhydra lutris nereis*) and up to 80 Northern sea otters (*Enhydra lutris kenyoni*) within a six month period at the Monterey Bay area, California, and Cordova and Simpson Bay areas and Prince William Sound, Alaska, for the purpose of education. This notification covers activities to be conducted by the applicant over a 5-year period.

IV. Next Steps

If the Service decides to issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**. You may locate the **Federal Register** notice announcing the permit issuance date by searching in www.regulations.gov under the permit number listed in this document.

V. Public Comments

You may submit your comments and materials concerning this notice by one of the methods listed in **ADDRESSES**. We will not consider comments sent by email or fax or to an address not listed in **ADDRESSES**.

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

We will post all hardcopy comments on <http://www.regulations.gov>.

VI. Authorities

Endangered Species Act of 1973, (16 U.S.C. 1531 *et seq.*); Marine Mammal Protection Act of 1972, (16 U.S.C. 1361 *et seq.*).

Joyce Russell,
Government Information Specialist, Branch of Permits, Division of Management Authority.

[FR Doc. 2017-14146 Filed 7-5-17; 8:45 am]

BILLING CODE 4333-15-P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[GX16MN00F1F2000]

Agency Information Collection Activities: OMB Control Number 1028-0109; iCoast—Did the coast change?

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of a renewal of a currently approved information collection (1028-0109).

SUMMARY: We (the U.S. Geological Survey) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act (PRA) of 1995, and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This collection is scheduled to expire on September 30, 2017.

DATES: To ensure that your comments are considered, we must receive them on or before September 5, 2017.

ADDRESSES: You may submit comments on this information collection to the Information Collection Clearance Officer, U.S. Geological Survey, gs-info_collections@usgs.gov (email). Please reference 'Information Collection 1028-0109, iCoast—Did the Coast Change?' in all correspondence.

FOR FURTHER INFORMATION CONTACT: Karen L.M. Morgan, Coastal Geologist, St. Petersburg Coastal and Marine Science Center, U.S. Geological Survey, 600 4th. St. South, St. Petersburg, FL 33701, 727-502-8037, kmorgan@usgs.gov. You may also find information about this ICR at www.reginfo.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

As part of its mission to document coastal change, the USGS has been taking aerial photographs of the coast before and after each major storm for the past 21 years to assess damages to the natural landscape and the built environment. A typical mission can consist of between approximately 3,000–10,000 photographs. The digital photo-archive maintained by the USGS is a valuable environmental record almost 200,000 photographs taken before and after 24 extreme storms along the Gulf and Atlantic Coasts. At the same time, the USGS has been developing mathematical models that predict the likely interactions between storm surge and coastal features, such as beaches and dunes, during extreme storms, with the aim of predicting areas that are vulnerable to storm damage. Currently the photographs are not used to inform the mathematical models. The models are based primarily on pre-storm dune height and predicted wave behavior.

If scientists could “ground truth” coastal damage by comparing before and

after photographs of the coast, the predictive models might be improved. It is not physically or economically possible for USGS scientists to examine all aerial photographs related to each storm, however, and automation of this process is also problematic. Image analysis software is not yet sophisticated enough to automatically identify damages to the natural landscape and the infrastructure that are depicted in these photographs; human perception and local knowledge are required. 'iCoast—Did the Coast Change?' (hereafter referred to as 'iCoast') is a USGS research project to construct a web-based application that will allow citizen volunteers to compare these before and after photographs of the coast and identify changes that result from extreme storms through a process known as 'crowdsourcing' (<http://en.wikipedia.org/wiki/Crowdsourcing>). In concept, this application will be similar to those of other citizen science image comparison and classification projects such as the Citizen Science Alliance's Cyclone Center project, (see www.cyclonecenter.org), which asks people to classify types of cyclones by comparing satellite images.

There are two distinct purposes to 'iCoast':

- To allow USGS scientists to 'ground truth' or validate their predictive storm surge models. These mathematical models, which are widely used in the emergency management community for locating areas of potential vulnerability to incoming storms, are currently based solely on pre-storm beach morphology as determined by high-resolution elevation data, and predicted wave behavior derived from parameters of the approaching storm. The on-the-ground post-storm observations provided by citizens using 'iCoast' will allow scientists to determine the accuracy of the models for future applications, and
- to serve as a repository of images that enables citizens to become more aware of their vulnerability to coastal change and to participate in the advancement of coastal science.

The application consists of sets of before-and-after photographs from each storm with accompanying educational material about coastal hazards. Since the photographs of a given area were taken on different dates following slightly different flight paths, the geographic orientation of before and after images may differ slightly. Often there will be more than one image covering approximately the same geographic area and showing the same coastal features. Participants are asked to identify which post-storm image best

covers the same geographic area and shows the same natural and man-made features as the image taken after the storm. After the best match between before-and-after aerial photographs is established, participants will classify post-storm coastal damage using simple one-or-two word descriptive tags. This type of tagging is similar to that used in commercial photo-sharing Web sites such as Flickr (www.flickr.com). Each participant will classify photographs of their choice. They may classify as many photographs as they wish in as many sessions as they choose.

In order for a citizen to participate in classifying the photographs, the following information must be collected by this application:

(1) Participants will login to the 'iCoast' application using externally issued credentials via the Federally approved "Open Identity Exchange" (www.openid.net) method. This Federal Government program benefits users by accelerating their sign up, reducing the frustration of maintaining multiple passwords, allowing them to control their own identity, and minimizing password security risks. User credentials will be managed and authenticated by Google, an Identity Provider approved by the Federal Government. During the login process participants will be redirected to a Google owned and operated login page. Following successful authentication of Id and password, participants are asked by Google to confirm agreement to their Google email address being shared with 'iCoast'. Users have the option to decline this and halt the login process with no information shared to 'iCoast'. If a participant accepts the sharing of their email address then the USGS will store the address within the 'iCoast' database. 'iCoast' is never supplied nor does it request a participant's password directly. Storing of the participant's email address by 'iCoast' is necessary to permit the pairing of Google login credentials with their 'iCoast' profile. The USGS will encrypt all stored participant email addresses. No other information or Google account access is shared by Google to 'iCoast' and nothing is shared from 'iCoast' to Google at any time.

(2) *Level of expertise:* At initial log in to 'iCoast', the participant will be asked to indicate what type of 'crowd' or group he or she belongs to by picking from a pre-determined list (e.g. coastal scientist, coastal planner, coastal resident, general public, etc.). The participant may also optionally contribute his or her professional affiliation in an open text box, but this is not required. Professional affiliation

may provide additional information to the scientists to more fully assess the accuracy of a participant's classifications. Provision of level of expertise alone will not allow an individual to be personally identified.

(3) *Keyword tagging:* After comparing pre-and post-storm aerial photographs, participants can select predefined keyword tags OR they can submit their own in a free-form text field. The keyword tags will help the USGS determine classification accuracy, and confirm or refute pre-storm predictions of coastal inundation and damage derived from the mathematical storm surge models.

This application will have many benefits. It will serve the cause of open government and open data, in that these images will be available to the public in an easily accessible online format for the first time. It will enhance the science of coastal change and allow for more accurate storm surge predictions, benefitting emergency managers and coastal planners. It will also familiarize coastal communities with coastal processes and increase their awareness of vulnerabilities to extreme storms. We anticipate that this application will be used by educators to further science, technology, engineering and mathematics (STEM) education; outreach to educators is planned.

II. Data

OMB Control Number: 1028–0109.

Form Number: None.

Title: iCoast—Did the Coast Change?

Type of Request: Renewal of existing information collection.

Affected Public: Coastal scientists, coastal managers, marine science students, emergency managers, citizens/residents of coastal communities.

Respondent's Obligation: None. Participation is voluntary.

Frequency of Collection: Occasional.

Estimated Total Number of Annual Responses: 2000 individuals.

Estimated Time per Response: 5 minutes.

Estimated Annual Burden Hours: 167 hours.

Estimated Reporting and Recordkeeping "Non-Hour Cost"

Burden: There are no "non-hour cost" burdens associated with this IC.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number and current expiration date.

III. Request for Comments

We are soliciting comments as to: (a) Whether the proposed collection of

information is necessary for the agency to perform its duties, including whether the information is useful; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and (d) how to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Please note that the comments submitted in response to this notice are a matter of public record. Before including your personal mailing address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment, including your personally identifiable information, may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public view, we cannot guarantee that we will be able to do so.

Christopher Reich,

Deputy Center Director, USGS St. Petersburg Coastal and Marine Science Center.

[FR Doc. 2017-14192 Filed 7-5-17; 8:45 am]

BILLING CODE 4338-11-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1048]

Certain Intravascular Administration Sets and Components Thereof; Notice of a Commission Determination Not To Review an Initial Determination Finding Respondent Yangzhou Weideli Trade Co., Ltd. in Default; Request for Submissions

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 6) of the presiding administrative law judge ("ALJ") finding respondent Yangzhou WeiDeLi Trade Co., Ltd. in default. The Commission is requesting submissions on remedy, bonding and the public interest.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202)

205-3115. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("section 337"), on April 12, 2017, based on a complaint filed by Curlin Medical Inc. of East Aurora, New York; ZEVEX, Inc. of Salt Lake City, Utah; and Moog Inc. of East Aurora, New York (collectively, "Complainants"). 82 FR 17690-91 (Apr. 12, 2017). The complaint alleges a violation of section 337 by reason of infringement of certain claims of U.S. Patent Nos. 6,164,921 ("the '921 patent") and 6,371,732 ("the '732 patent"). The complainant named Yangzhou WeiDeLi Trade Co., Ltd. of Yangzhou, China ("Yangzhou" or "Respondent") as the only respondent in this investigation. The Commission's Office of Unfair Import Investigations was named as a party.

On April 7, 2017, the Commission served a copy of the Complaint and Notice of Investigation on Yangzhou by express delivery. EDIS Document Number 606380. Docket Services confirmed that the documents were accepted by Yangzhou on April 10, 2017. Yangzhou did not timely respond to the Complaint and Notice of Investigation. On May 10, 2017, Complainants filed a Motion for an Order to Show Cause and Entry of Default Judgement as to Respondent and for a Stay of the Procedural Schedule. (Mot.) On May 23, 2017, the ALJ issued Order No. 5, granting Complainants' motion and ordering respondent Yangzhou to show cause why it should not be held in default for failing to respond to the complaint and notice of investigation. The order set a deadline of June 9, 2017, and no response was received from Yangzhou.

On June 13, 2017, the ALJ issued the subject ID (Order No. 6). The ALJ found that Yangzhou failed to respond to

Order No. 5 and, accordingly, he determined that Yangzhou be found in default. Order No. 6 at 2. The ALJ further stated that Yangzhou therefore waived its right to appear, be served with documents, and to contest the allegations at issue in this investigation. *Id.* No party petitioned for review of the subject ID, and the Commission has determined not to review the ID. Complainants have indicated that they are not seeking a general exclusion order. *See* Complaint and Mot.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue a cease and desist order that could result in the respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles.

Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or are likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843, Comm'n Op. at 7-10 (Dec. 1994).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and

prescribed by the Secretary of the Treasury.

Written Submissions: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest and bonding. Complainants and the Commission investigative attorney (“IA”) are also requested to submit proposed remedial orders for the Commission’s consideration.

Complainants are further requested to provide the expiration date of the ‘921 and ‘732 patents, the HTSUS numbers under which the accused articles are imported, and the identities of any known importers of the accused products. The written submissions and proposed remedial orders must be filed no later than the close of business on July 14, 2017. Reply submissions must be filed no later than the close of business on July 21, 2017. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission’s Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (“Inv. No. 337-TA-1048”) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronicfiling.pdf). Persons with questions regarding filing should contact the Secretary (202-205-2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in

internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission’s determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in part 210 of the Commission’s Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.

Issued: June 30, 2017.

Katherine M. Hiner,

Supervisory Attorney.

[FR Doc. 2017-14194 Filed 7-5-17; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1000]

Certain Motorized Self-Balancing Vehicles; Supplemental Notice of Request for Statements on the Public Interest

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the presiding administrative law judge (“ALJ”) has issued a Final Initial Determination on Violation of Section 337 and Recommended Determination on Remedy and Bonding in the above-captioned investigation. The Commission is soliciting comments on public interest issues raised by the recommended relief should the Commission find a violation of section 337, as amended. The ALJ recommended a limited exclusion order directed against certain motorized self-balancing vehicles imported by the sixteen defaulting respondents, and cease and desist orders directed against these respondents. This supplemental notice is soliciting public interest comments from the public only. Parties are to file public interest submissions pursuant to applicable Federal regulations.

FOR FURTHER INFORMATION CONTACT:

Clint A. Gerdine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW.,

Washington, DC 20436, telephone (202) 708-2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337(d)(1)) provides that if the Commission finds a violation it shall exclude the articles concerned from the United States:

. . . [U]nless, after considering the effect of such exclusion upon the public health and welfare, competition conditions in the United States economy, the production of like or directly competitive articles in the United States consumers, it finds that such articles should not be excluded from entry.

A similar provision applies to cease and desist orders (see 19 U.S.C. 1337(f)(1)).

The Commission is interested in further development of the record on the public interest in its investigations. Accordingly, members of the public are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the administrative law judge’s Recommended Determination on Remedy and Bonding issued in this investigation on May 26, 2017. Comments should address whether issuance of an exclusion order and/or cease and desist orders in this investigation could affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

- (i) Explain how the articles potentially subject to the recommended orders are used in the United States;
- (ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;
- (iii) indicate the extent to which like or directly competitive articles are produced in the United States or are

otherwise available in the United States, with respect to the articles potentially subject to the recommended orders;

(iv) indicate whether Complainant, Complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the recommended orders within a commercially reasonable time; and

(v) explain how the recommended orders would impact consumers in the United States.

The deadline for filing written submissions has been extended to the close of business on July 14, 2017.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to Commission Rule 210.4(f), 19 CFR 210.4(f). Submissions should refer to the investigation number ("Inv. No. 337-TA-1000") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf). Persons with questions regarding filing should contact the Secretary (202-205-2000).

Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

This action is taken under authority of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: June 30, 2017.

Katherine M. Hiner,
Supervisory Attorney.

[FR Doc. 2017-14197 Filed 7-5-17; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act and Notice of Availability and Request for Comments on Draft Restoration Plan and Environmental Assessment

On June 29, 2017, the Department of Justice lodged a proposed Consent Decree and Draft Restoration Plan/Environmental Assessment ("RP/EA") with the United States District Court for the District of Minnesota in the lawsuit entitled *United States, Minnesota, and Wisconsin v. XIK, LLC; Honeywell International, Inc.; and Domtar, Inc.*, Civil Action No. 017-cv-02368.

The proposed Consent Decree will resolve a claim for natural resource damages at the St. Louis River/Interlake/Duluth Tar ("SLRIDT") Superfund Site brought by the governments under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9607. The SLRIDT Site consists of 255 acres of land and river embayments located primarily in Duluth, Minnesota, and extends into the St. Louis River. The filed complaint alleges that the three Defendants are liable under CERCLA for industrial discharges of polycyclic aromatic hydrocarbons ("PAHs") at the SLRIDT Site during the first half of the 20th Century. PAHs were identified in river sediments throughout the Site in sufficient concentrations to cause injury to many types of natural resources, including vegetation, fish and birds. In addition, PAH-contaminated natural resources resulted in the loss of recreational fishing and tribal use services.

Under CERCLA, federal, state, and tribal natural resource trustees have authority to seek compensation for natural resources harmed by hazardous industrial waste and by-products discharged into the St. Louis River. The natural resource trustees here include the U.S. Department of the Interior, acting through the U.S. Fish and Wildlife Service and the Bureau of Indian Affairs; the U.S. Department of Commerce, acting through the National Oceanic and Atmospheric Administration; the Fond du Lac Band of Lake Superior Chippewa; the 1854 Treaty Authority, representing the Grand Portage Band of Lake Superior Chippewa and the Bois Forte Band of Chippewa; the Minnesota Pollution Control Agency; the Minnesota Department of Natural Resources; and

the Wisconsin Department of Natural Resources (collectively, the "Trustees").

Under the proposed Consent Decree, the Defendants will pay \$8.2 million of which \$6,476,742 will fund Trustee-sponsored natural resource restoration projects in accordance with the RP/EA and \$1,723,258 will provide reimbursement for costs incurred by the Trustees in assessing the scope of natural resource damages. The RP/EA presents the restoration projects proposed by the Trustees to restore natural resources injured by hazardous substances released in and around the SLRIDT site.

Consistent with the natural resource damages assessment and restoration ("NRDAR") regulations, 43 CFR part 11, and the National Environmental Policy Act of 1969 ("NEPA"), as amended, 42 U.S.C. 4321-4347 *et seq.*, and its implementing regulations at 40 CFR parts 1500-1508, the Trustees evaluated a suite of five alternatives for conducting the type and scale of restoration sufficient to compensate the public for natural resource injuries and service losses. Based on selection factors including location, technical feasibility, cost effectiveness, provision of natural resource services similar to those lost due to contamination, and net environmental consequences, the Trustees identified a preferred alternative.

Under the preferred alternative, the Trustees would conduct enhancement/restoration of shallow sheltered embayment at Kingsbury Bay, which includes recreational access and cultural education opportunities; implement watershed protection at Kingsbury Creek; and restore wild rice in the St. Louis River estuary.

The publication of this notice opens a period for public comment on the Consent Decree and RP/EA.

Comments on the Consent Decree should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States Minnesota, and Wisconsin v. XIK, LLC; Honeywell International, Inc.; and Domtar, Inc.*, D.J. Ref. No. 90-11-3-07875. All comments on the Consent Decree must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit
comments:

Send them to:

By email

pubcomment-ees.enrd@usdoj.gov

<i>To submit comments:</i>	<i>Send them to:</i>
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for \$41.75 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy of the Consent Decree without the attached RP/EA, the cost is \$9.25. For a paper copy of only the RP/EA, the cost is \$32.50.

Comments on the RP/EA should be addressed to Ronald Wieland, Minnesota Department of Natural Resources, and reference “SLRDIT RP/EA” in the subject line. All comments on the RP/EA must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By email	<i>Ronald.Wieland@state.mn.us.</i>
By mail	Ronald Wieland, Minnesota Department of Natural Resources, 500 Lafayette Road North, St. Paul, MN 55155.

During the public comment period, the RP/EA may be examined and downloaded at this U.S. Fish and Wildlife Service Midwest Region Natural Resource Damage Assessment Web site: <https://www.fws.gov/Midwest/es/ec/nrda/index.html>. As described above, a paper copy of the RP/EA may be obtained from the Department of Justice as part of the Consent Decree upon written request and payment of reproduction costs.

Randall M. Stone,

*Acting Assistant Section Chief,
Environmental Enforcement Section,
Environment and Natural Resources Division.*

[FR Doc. 2017–14193 Filed 7–5–17; 8:45 am]

BILLING CODE 4410–15–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[17–044]

NASA Advisory Council; Human Exploration and Operations Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Human Exploration and Operations Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC.

DATES: Monday, July 24, 2017, 10:30 a.m.–5:00 p.m.; and Tuesday, July 25, 2017, 9:00 a.m.–5:15 p.m., Local Time.

ADDRESSES: National Institute of Aerospace, Room 137, 100 Exploration Way, Hampton, VA 23666

FOR FURTHER INFORMATION CONTACT: Dr. Bette Siegel, Executive Secretary, NAC Human Exploration and Operations Committee, NASA Headquarters, Washington, DC 20546, (202) 358–2245, or bette.siegel@nasa.gov.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. This meeting is also available telephonically and by WebEx. You must use a touch-tone phone to participate in this meeting. Any interested person may dial the toll free access number 1–888–324–9238 or toll access number 1–517–308–9132, and then the numeric participant passcode: 3403297 followed by the # sign. The WebEx link is <https://nasa.webex.com/>, the meeting number is 991 050 585, and the password is Exploration@2017 (case sensitive).

Note: If dialing in, please “mute” your telephone.

The agenda for the meeting includes the following topics:

- Human Exploration and Operations Mission Directorate
- International Space Station
- Exploration Systems Divisions
- Commercial Crew
- Future Human Exploration Plans and Science Opportunities Overview
- Total Solar Eclipse Science

Attendees will be requested to sign a register. It is imperative that the meeting

be held on these dates to the scheduling priorities of the key participants.

Carol J. Hamilton,

Acting Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2017–14118 Filed 7–5–17; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[17–046]

NASA Advisory Council; Technology, Innovation and Engineering Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Technology, Innovation and Engineering Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC.

DATES: Tuesday, July 25, 2017, 8:00 a.m.–5:00 p.m., Local Time.

ADDRESSES: National Aerospace Institute, Room 101, 100 Exploration Way, Hampton, VA 23666.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Green, Executive Secretary, NAC Technology, Innovation, and Engineering Committee, NASA Headquarters, Washington, DC 20546, (202) 358–4710, or g.m.green@nasa.gov.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. This meeting is also available telephonically and by WebEx. You must use a touch-tone phone to participate in this meeting. Any interested person may dial the toll free access number 1–844–467–6272, and then the numeric participant passcode 102421 followed by the # sign. The WebEx link is <https://nasa.webex.com/>, the meeting number is 990 800 956, and the password is “TIE@NIA2017” (case sensitive).

Note: If dialing in, please “mute” your telephone.

The agenda for the meeting includes the following topics:

- Space Technology Mission Directorate (STMD) Update
- Habitation Capability Development—Human Exploration Operations Tech Development Efforts
- Centennial Challenges Program Findings and Response
- Office of the Chief Engineer Update

- Advanced Manufacturing and Structures Update
- Future Technology Demonstration Missions and In-Space Robotic Manufacturing and Assembly (IRMA) Update
- STMD Strategy Framework Discussion

Attendees will be requested to sign a register. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Carol J. Hamilton,

Acting Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2017-14116 Filed 7-5-17; 8:45 am]

BILLING CODE 7510-13-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 17-047]

NASA Advisory Council; Ad Hoc Task Force on STEM Education Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Ad Hoc Task Force on Science, Technology, Engineering and Mathematics (STEM) of the NASA Advisory Council (NAC). This Task Force reports to the NAC.

DATES: Tuesday, July 25, 2017, 12:00-4:30 p.m.; Local Time.

ADDRESSES: National Institute of Aerospace, Room 142, 100 Exploration Way, Hampton, VA 23666.

FOR FURTHER INFORMATION CONTACT: Dr. Beverly Girtten, Executive Secretary, NAC Ad Hoc Task Force on STEM Education, NASA Headquarters, Washington, DC 20546, (202) 358-0212, or beverly.e.girtten@nasa.gov.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. This meeting is also available telephonically and by WebEx. You must use a touch-tone phone to participate in this meeting. Any interested person may dial the toll free access number 1-844-467-6272 or toll access number 1-720-259-6462, and then the numeric participant passcode: 634012 followed by the # sign. The WebEx link is <https://nasa.webex.com/>, the meeting number is 997 505 505 and the password is Elaine56\$ (case sensitive).

Note: If dialing in, please “mute” your telephone.

The agenda for the meeting will include the following:

- Opening Remarks by Chair
- STEM Education Advisory Panel (CoSTEM)
- Update on Business Service Assessment
- Status on Office of Education Budget
- Discussing/Finalizing Findings and Recommendations
- Other Related Topics

Attendees will be requested to sign a register. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Carol J. Hamilton,

Acting Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2017-14115 Filed 7-5-17; 8:45 am]

BILLING CODE 7510-13-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 17-045]

NASA Advisory Council; Institutional Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Institutional Committee of the NASA Advisory Council (NAC). This committee reports to the NAC.

DATES: Tuesday, July 25, 2017, 8:30 a.m.-5:00 p.m.; Local Time.

ADDRESSES: National Institute of Aerospace, Room 101C, 100 Exploration Way, Hampton, VA 23666.

FOR FURTHER INFORMATION CONTACT: Mr. Todd Mullins, Executive Secretary, NAC Institutional Committee, NASA Headquarters, Washington, DC 20546; (202) 358-3831, or todd.mullins@nasa.gov.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. This meeting is also available telephonically and by WebEx. You must use a touch-tone phone to participate in this meeting. Any interested person may dial the toll free access number 1-844-467-6272 or toll access number 1-720-259-6462, and then the numeric participant passcode: 180093 followed by the #

sign. The WebEx link is <https://nasa.webex.com/>, the meeting number is 999 312 235 and the password is Meeting2017! (case sensitive).

Note: If dialing in, please “mute” your telephone.

The agenda for the meeting includes the following topics:

- Mission Support Update
- NASA Langley Research Center Institutional Perspective
- IT Transformation Update

Attendees will be requested to sign a register. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Carol J. Hamilton,

Acting Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2017-14117 Filed 7-5-17; 8:45 am]

BILLING CODE 7510-13-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[17-043]

NASA Advisory Council; Aeronautics Committee; Meeting.

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Aeronautics Committee of the NASA Advisory Council (NAC). The meeting will be held for the purpose of soliciting, from the aeronautics community and other persons, research and technical information relevant to program planning. This Committee reports to the NAC.

DATES: Tuesday, July 25, 2017, 10:30 a.m.-5:30 p.m., Local Time.

ADDRESSES: National Institute of Aerospace, Room 141, 100 Exploration Way, Hampton, VA 23666.

FOR FURTHER INFORMATION CONTACT: Ms. Irma Rodriguez, Executive Secretary, NAC Aeronautics Committee, NASA Headquarters, Washington, DC 20546, (202) 358-0984, or irma.c.rodriguez@nasa.gov.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. This meeting is also available telephonically and by WebEx. You must use a touch-tone phone to participate in this meeting. Any interested person may dial

the toll free access number 1-844-467-6272, and then the numeric participant passcode: 208191 followed by the # sign. The WebEx link is <https://nasa.webex.com/>, the meeting number is 996 745 754, and the password is CFKxfq@3 (case sensitive).

Note: If dialing in, please “mute” your telephone.

The agenda for the meeting includes the following topics:

- New Aviation Horizons Planning and Management Status
- Aeronautics Research Mission Directorate FY 2018 Budget
- Airspace Transportation Demonstrator Overview

Attendees will be requested to sign a register. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Carol J. Hamilton,

Acting Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2017-14119 Filed 7-5-17; 8:45 am]

BILLING CODE 7510-13-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 17-042]

NASA Advisory Council; Science Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Science Committee of the NASA Advisory Council (NAC). The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning. This Committee reports to the NAC.

DATES: Monday, July 24, 2017, 8:30 a.m.–5:30 p.m.; and Tuesday, July 25, 2017, 9:00 a.m.–5:15 p.m., Local Time.

ADDRESSES: National Institute of Aerospace, Room 141 (on July 24) and Room 137 (on July 25), 100 Exploration Way, Hampton, VA 23666.

FOR FURTHER INFORMATION CONTACT: Ms. KarShelia Henderson, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358-2355, fax (202) 358-2779, or khenderson@nasa.gov.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. This meeting is also available telephonically and by WebEx. You must use a touch-tone phone to participate in this meeting. For July 24, please use the following information. The Science Committee meeting will be held in Room 141. Any interested person may dial the toll free number 1-888-592-9603 or toll access number 1-312-470-7407, and then the numeric participant passcode: 5588797 followed by the # sign. The WebEx link is <https://nasa.webex.com/>; the meeting number is 991 826 993 and the password is SC@July2017. For July 25, please use the following information. The joint Science Committee/Human Exploration and Operations Committee meeting will be held in Room 137. Any interested person may dial the toll free number 1-888-324-9238 or toll access number 1-517-308-9132, and then the numeric participant passcode: 3403297 followed by the # sign. The WebEx link is <https://nasa.webex.com/>; the meeting number is 991 050 585, and the password is Exploration@2017 (case sensitive).

Note: If dialing in, please “mute” your telephone.

The agenda for the meeting includes the following topics:

- Future Human Exploration Plans and Science Opportunities Overview
- Science Mission Directorate FY 2018 Budget Briefing
- Research and Analysis Charge
- Total Solar Eclipse Science

Attendees will be requested to sign a register. It is imperative that the meeting be held on these dates to the scheduling priorities of the key participants.

Carol J. Hamilton,

Acting Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2017-14120 Filed 7-5-17; 8:45 am]

BILLING CODE 7510-13-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[17-036]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to

comment on proposed and/or continuing information collections.

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Frances Teel, Mail Code JF000, National Aeronautics and Space Administration, Washington, DC 20546-0001.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Frances Teel, NASA PRA Clearance Officer, NASA Headquarters, 300 E Street SW., Mail Code JF000, Washington, DC 20546.

SUPPLEMENTARY INFORMATION:

I. Abstract

This information collection is for reports, other than financial, property, or patent, data or copyrights reports, which are covered under separate ICRs. These reports are required for effective management and administration of contracts with an estimated value of more than \$500,000, in support of NASA's mission.

II. Method of Collection

NASA collects this information electronically where feasible, but information may also be collected by mail or fax.

III. Data

Title: Reports Requested for Contracts with an Estimated Value Greater Than \$500,000.

OMB Number: 2700-0089.

Type of review: Extension of a currently approved collection.

Affected Public: Business or other for-profit; Not-for-profit institutions; and State, Local or Tribal Government.

Estimated Number of Respondents: 501.

Estimated Annual Responses: 436.

Estimated Time per Response: 7 hours.

Estimated Total Annual Burden Hours: 3,052.

Estimated Total Annual Cost: \$180,068.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and

clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Frances Teel,

NASA PRA Clearance Officer.

[FR Doc. 2017-14102 Filed 7-5-17; 8:45 am]

BILLING CODE 7510-13-P

NATIONAL SCIENCE FOUNDATION

Committee Management; Renewals

The National Science Foundation (NSF) management officials having responsibility for the advisory committees listed below have determined that renewing these groups for another two years is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), by 42 U.S.C. 1861 *et seq.* This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Committees

Advisory Committee for Biological Sciences, #1110
 Advisory Committee for Cyberinfrastructure, #25150
 Advisory Committee for Education and Human Resources, #1119
 Advisory Committee for Engineering, #1170
 Advisory Committee for Geosciences, #1755
 Advisory Committee for Integrative Activities, #1373
 Alan T. Waterman Award Committee, #1172
 Proposal Review Panel for Atmospheric and Geospace Sciences, #10751
 Proposal Review Panel for Behavioral and Cognitive Sciences, #10747
 Proposal Review Panel for Biological Infrastructure, #10743
 Proposal Review Panel for Earth Sciences, #1569
 Proposal Review Panel for Emerging Frontiers in Biological Sciences, #44011
 Proposal Review Panel for Environmental Biology, #10744
 Proposal Review Panel for Geosciences, #1756
 Proposal Review Panel for Integrative Organismal Systems, #10745
 Proposal Review Panel for Molecular and Cellular Biosciences, #10746
 Proposal Review Panel for Ocean Sciences, #10752
 Proposal Review Panel for Research on Learning in Formal and Informal Settings, #59

Proposal Review Panel for Social, Behavioral and Economic Sciences, #1766
 Proposal Review Panel for Social and Economic Sciences, #10748
 Proposal Review Panel for Integrative Activities, #2469
 Proposal Review Panel for International Science and Engineering, #10749
 Effective date for renewal is June 30 2017. For more information, please contact Crystal Robinson, NSF, at (703) 292-8687.

Dated: June 30, 2017.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2017-14158 Filed 7-5-17; 8:45 am]

BILLING CODE 7555-01-P

POSTAL REGULATORY COMMISSION

[Docket No. CP2017-217]

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:* July 7, 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:

Table of Contents

- 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):* CP2017-217; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 7 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* June 28, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* July 7, 2017.

This notice will be published in the **Federal Register**.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2017-14114 Filed 7-5-17; 8:45 am]

BILLING CODE 7710-FW-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81054; File No. SR-FICC-2017-802]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of No Objection to Advance Notice Filing To Implement the Capped Contingency Liquidity Facility in the Government Securities Division Rulebook

June 29, 2017.

Fixed Income Clearing Corporation (“FICC”) filed with the U.S. Securities and Exchange Commission (“Commission”) on March 1, 2017 the advance notice SR-FICC-2017-802 (“Advance Notice”) pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled the Payment, Clearing, and Settlement Supervision Act of 2010 (“Clearing Supervision Act”)¹ and Rule 19b-4(n)(1)(i) under the Securities Exchange Act of 1934 (“Exchange Act”).² The Advance Notice was published for comment in the **Federal Register** on March 15, 2017.³ The Commission received no comments to the Advance Notice, and it received four comment letters to the related

¹ 12 U.S.C. 5465(e)(1). The Financial Stability Oversight Council designated FICC a systemically important financial market utility on July 18, 2012. See Financial Stability Oversight Council 2012 Annual Report, Appendix A, <http://www.treasury.gov/initiatives/fsoc/Documents/2012%20Annual%20Report.pdf>. FICC is required to comply with the Payment, Clearing and Settlement Supervision Act and file advance notices with the Commission. See 12 U.S.C. 5465(e).

² 17 CFR 240.19b-4(n)(1)(i).

³ Securities Exchange Act Release No. 80191 (March 9, 2017), 82 FR 13876 (March 15, 2017) (SR-FICC-2017-802) (“Notice”). FICC also filed a related proposed rule change (SR-FICC-2017-002) (“Proposed Rule Change”) with the Commission pursuant to Section 19(b)(1) of the Exchange Act and Rule 19b-4 thereunder, seeking approval of changes to its rules necessary to implement the Advance Notice. 15 U.S.C. 78s(b)(1) and 17 CFR 240.19b-4, respectively. The Proposed Rule Change was published in the **Federal Register** on March 20, 2017. Securities Exchange Act Release No. 80234 (March 14, 2017), 82 FR 14401 (March 20, 2017) (SR-FICC-2017-002). On April 25, 2017, the Commission designated a longer period within which to approve the Proposed Rule Change, disapprove the Proposed Rule Change, or institute proceedings to determine whether to approve or disapprove the Proposed Rule Change. See Securities Exchange Act Release No. 80524 (April 25, 2017), 82 FR 20685 (May 3, 2017). On May 30, 2017, the Commission issued an order instituting proceedings to determine whether to approve or disapprove the Proposed Rule Change. See Securities Exchange Act Release No. 34-80812 (May 30, 2017), 82 FR 25642 (June 2, 2017) (SR-FICC-2017-002). The order instituting proceedings extended the Commission’s period to review the Proposed Rule Change and re-opened the comment period until June 23, 2017.

Proposed Rule Change.⁴ To the extent that comments to the Proposed Rule Change are relevant to the Advance Notice, they are discussed below.⁵ This publication serves as notice of no objection to the Advance Notice.

I. Description of the Advance Notice

FICC’s current liquidity resources for its Government Securities Division (“GSD”)⁶ consist of (i) cash in GSD’s clearing fund; (ii) cash that can be obtained by entering into uncommitted repo transactions using securities in the clearing fund; (iii) cash that can be obtained by entering into uncommitted repo transactions using the securities that were destined for delivery to the defaulting Netting Member; and (iv) uncommitted bank loans.⁷ With this Advance Notice, FICC proposes to amend its GSD Rulebook (“GSD Rules”)⁸ to establish a rules-based, committed liquidity resource (*i.e.*, the Capped Contingency Liquidity Facility[®] (“CCLF”)) as an additional liquidity resource designed to provide FICC with a committed liquidity resource to meet its cash settlement obligations in the event of a default of the GSD Netting Member or family of affiliated Netting Members (“Affiliated Family”) to which FICC has the largest exposure in

⁴ See letter from Robert E. Pooler Jr., Chief Financial Officer, Ronin Capital LLC (“Ronin”), dated April 10, 2017, to Robert W. Errett, Deputy Secretary, Commission (“Ronin Letter I”); letter from Alan B. Levy, Managing Director, Industrial and Commercial Bank of China Financial Services LLC (“ICBC”), Philip Vandermause, Director, Aardvark Securities LLC, David Rutter, Chief Executive Officer, LiquidityEdge LLC, Robert Pooler, Chief Financial Officer, Ronin Capital LLC, Jason Manumaleuna, Chief Financial Officer and EVP, Rosenthal Collins Group LLC, and Scott Skrym, Managing Director, Wedbush Securities Inc. (“ICBC Letter”); letter from Timothy J. Cuddihy, Managing Director, FICC, dated March 8, 2017, to Robert W. Errett, Deputy Secretary, Commission (“FICC Letter”); and letter from Robert E. Pooler Jr., Chief Financial Officer, Ronin, dated June 19, 2017, to Robert W. Errett, Deputy Secretary, Commission (“Ronin Letter II”), available at <https://www.sec.gov/comments/sr-ficc-2017-002/ficc2017002.htm>.

⁵ Because the proposal contained in the Advance Notice was also filed as the Proposed Rule Change, see *supra* note 3, the Commission is considering any comment received on the Proposed Rule Change also to be a comment on the Advance Notice.

⁶ FICC operates two divisions—GSD and the Mortgage-Backed Securities Division (“MBS”). GSD provides trade comparison, netting, risk management, settlement and central counterparty services for the U.S. government securities market, while MBS provides the same services for the U.S. mortgage-backed securities market. Because GSD and MBS are separate divisions of FICC, each division maintains its own rules, members, margin from their respective members, Clearing Fund, and liquid resources.

⁷ See Notice, 82 at 13878.

⁸ GSD Rules, available at www.dtcc.com/legal/rules-and-procedures.aspx.

extreme but plausible market conditions.⁹

A. Overview of the Proposal

CCLF would be invoked only if FICC declared a “CCLF Event,” which would occur only if FICC ceased to act for a Netting Member in accordance to GSD Rule 22A (referred to as a “default”) and, subsequent to such default, FICC determined that its other, above-described liquidity resources could not generate sufficient cash to satisfy FICC’s payment obligations to the non-defaulting Netting Members. Once FICC declares a CCLF Event, each Netting Member could be called upon to enter into repurchase transactions with FICC (“CCLF Transactions”) up to a pre-determined capped dollar amount, as described below.

1. Declaration of a CCLF Event

Following a default, FICC would first obtain liquidity through its other available non-CCLF liquidity resources. If FICC determined that these sources of liquidity would be insufficient to meet FICC’s payment obligations to its non-defaulting Netting Members, FICC would declare a CCLF Event. FICC would notify all Netting Members of FICC’s need to make such a declaration and enter into CCLF Transactions, as necessary, by issuing an Important Notice.

2. CCLF Transactions

Upon declaring a CCLF Event, FICC would meet its liquidity need by initiating CCLF Transactions with non-defaulting Netting Members. The original transaction that created FICC’s initial obligation to pay cash to the now Direct Affected Member, and the Direct Affected Member’s initial obligation to deliver securities to FICC, would be deemed satisfied by entry into the CCLF Transaction, and such settlement would be final.

Each CCLF Transaction would be governed by the terms of the September 1996 Securities Industry and Financial Markets Association Master Repurchase Agreement,¹⁰ which would be

⁹ As defined in the GSD Rules, the term “Netting Member” means a GSD member that is a member of the GSD Comparison System and the Netting System. *Id.*

¹⁰ The September 1996 Securities Industry and Financial Markets Association Master Repurchase Agreement (“SIFMA MRA”) is available at <http://www.sifma.org/services/standard-forms-and-documentation/mra-gmra-msla-and-msftas/>. The SIFMA MRA would be incorporated by reference into the GSD Rules without referenced annexes, other than Annex VII (Transactions Involving Registered Investment Companies) which would be applicable to any Netting Member that is a registered investment company. FICC represents that, at the time of filing the Advance Notice, there

incorporated by reference into the GSD Rules as a master repurchase agreement between FICC as seller and each Netting Member as buyer, with certain modifications as outlined in the GSD Rules (“CCLF MRA”).

To initiate CCLF Transactions with non-defaulting Netting Members, FICC would identify the non-defaulting Netting Members that are obligated to deliver securities destined for the defaulting Netting Member (“Direct Affected Members”) and FICC’s cash payment obligation to such Direct Affected Members that FICC would need to finance through CCLF to cover the defaulting Netting Member’s failure to deliver the cash payment (the “Financing Amount”). FICC would notify each Direct Affected Member of the Direct Affected Member’s Financing Amount and whether such Direct Affected Member should deliver to FICC or suppress any securities that were destined for the defaulting Netting Member. FICC would then initiate CCLF Transactions with each Direct Affected Member for the Direct Affected Member’s purchase of the securities (“Financed Securities”) that were destined for the defaulting Netting Member.¹¹ The aggregate purchase price of the CCLF Transactions with the Direct Affected Member could equal but never exceed the Direct Affected Member’s maximum funding obligation (“Individual Total Amount”).¹²

If any Direct Affected Member’s Financing Amount exceeds its Individual Total Amount (“Remaining Financing Amount”), FICC would advise the following categories of Netting Members (collectively, “Affected members”) that FICC intends to initiate CCLF Transactions with them for the Remaining Financing Amount: (i) All other Direct Affected Members with a Financing Amount less than its Individual Total Amount; and (ii) each Netting Member that has not otherwise entered into CCLF Transactions with FICC (“Indirect Affected Members”).

FICC states that the order in which FICC would enter into CCLF Transactions for the Remaining Financing Amount would be based upon the Affected Members that have the most funding available within their Individual Total Amounts.¹³ No

were no registered investment companies that are also GSD Netting Members.

¹¹ FICC states that it would have the authority to initiate CCLF Transactions with respect to any securities that are in the Direct Affected Member’s portfolio which are bound to the defaulting Netting Member.

¹² The sizing of each Direct Affected Member’s Individual Total Amount is described below in Section I.B.

¹³ See Notice, 82 at 13878.

Affected Member would be obligated to enter into CCLF Transactions greater than its Individual Total Amount.

After receiving approval from FICC’s Board of Directors to do so, FICC would engage its investment advisor during a CCLF Event to minimize liquidation losses on the Financed Securities through hedging, strategic dispositions, or other investment transactions as determined by FICC under relevant market conditions. Once FICC liquidates the underlying securities by selling them to a new buyer (“Liquidating Trade”), FICC would instruct the Affected Member to close the CCLF Transaction by delivering the Financed Securities to FICC in order to complete settlement of the Liquidating Trade. FICC would attempt to unwind the CCLF Transactions in the order it entered into the Liquidating Trades. Each CCLF Transaction would remain open until the earlier of (i) such time that FICC liquidates the Affected Member’s Financed Securities; (ii) such time that FICC obtains liquidity through its available liquid resources; or (iii) 30 or 60 calendar days after entry into the CCLF Transaction for U.S. government bonds and mortgage-backed securities, respectively.

B. CCLF Sizing and Allocation

According to FICC, its overall liquidity need during a CCLF Event would be determined by the cash settlement obligations presented by the default of a Netting Member and its Affiliated Family, as described below. An additional amount (“Liquidity Buffer”) would be added to account for both changes in Netting Members’ cash settlement obligations that may not be observed during the six-month look-back period during which CCLF would be sized, and the possibility that the defaulting Netting Member is the largest CCLF contributor. FICC believes that its proposal would allocate FICC’s observed liquidity need during a CCLF Event among all Netting Members based on their historical settlement activity, but states that Netting Members that present the highest cash settlement obligations would be required to maintain higher CCLF funding obligations.¹⁴

The steps that FICC would take to size its overall liquidity need during a CCLF event and then size and allocate each Netting Member’s CCLF contribution requirement are described below.

¹⁴ *Id.* at 13878–79.

Step 1: CCLF Sizing

(A) Historical Cover 1 Liquidity Requirement

FICC’s historical liquidity need for the six-month look-back period would be equal to the largest liquidity need generated by an Affiliated Family during the preceding six-month period. The amount would be determined by calculating the largest sum of an Affiliated Family’s obligation to receive GSD eligible securities plus the net dollar amount of its Funds-Only Settlement Amount¹⁵ (collectively, the “Historical Cover 1 Liquidity Requirement”). FICC believes that it is appropriate to calculate the Historical Cover 1 Liquidity Requirement in this manner because the default of such an Affiliated Family would generate the largest liquidity need for FICC.¹⁶

(B) Liquidity Buffer

According to FICC, it is cognizant that the Historical Cover 1 Liquidity Requirement would not account for changes in a Netting Member’s current trading behavior, which could result in a liquidity need greater than the Historical Cover 1 Liquidity Requirement. To account for this potential shortfall, FICC proposes to add a Liquidity Buffer as an additional amount to the Historical Cover 1 Liquidity Requirement, which would help to better anticipate GSD’s total liquidity need during a CCLF Event.

FICC states that the Liquidity Buffer would initially be 20 percent of the Historical Cover 1 Liquidity Requirement (and between 20 to 30 percent thereafter), subject to a minimum amount of \$15 billion.¹⁷ FICC believes that 20 to 30 percent of the Historical Cover 1 Liquidity Requirement is appropriate based on its analysis and statistical measurement of the variance of its daily liquidity need

¹⁵ According to FICC, the Funds-Only Settlement Amount reflects the amount that FICC collects and passes to the contra-side once FICC marks the securities in a Netting Member’s portfolio to the current market value. FICC states that this amount is the difference between the contract value and the current market value of a Netting Member’s GSD portfolio. FICC states that it would consider this amount when calculating the Historical Cover 1 Liquidity Requirement because in the event that an Affiliated Family defaults, the Funds-Only Settlement Amount would also reflect the cash obligation to non-defaulting Netting Members. See Notice, 82 at 13879.

¹⁶ *Id.*

¹⁷ See Notice, 82 at 13879. For example, if the Historical Cover 1 Liquidity Requirement was \$100 billion, the Liquidity Buffer initially would be \$20 billion (\$100 billion × 0.20), for a total of \$120 billion in potential liquidity resources.

throughout 2015 and 2016.¹⁸ FICC also believes that the \$15 billion minimum dollar amount is necessary to cover changes in a Netting Member's trading activity that could exceed the amount that is implied by such statistical measurement.¹⁹

FICC would have the discretion to adjust the Liquidity Buffer, within the range of 20 to 30 percent of the Historical Cover 1 Liquidity Requirement, based on its analysis of the stability of the Historical Cover 1 Liquidity Requirement over various time horizons. According to FICC, this would help ensure that its liquidity resources are sufficient under a wide range of potential market scenarios that may lead to a change in a Netting Member's trading behavior. FICC also states that it would analyze the trading behavior of Netting Members that present larger liquidity needs than the majority of the Netting Members, as described below.²⁰

(C) Aggregate Total Amount

FICC's anticipated total liquidity need during a CCLF Event (*i.e.*, the sum of the Historical Cover 1 Liquidity Requirement plus the Liquidity Buffer) would be referred to as the "Aggregate Total Amount." The Aggregate Total Amount initially would be set to the Historical Cover 1 Liquidity Requirement plus the greater of 20 percent of the Historical Cover 1 Liquidity Requirement or \$15 billion.

Step 2: Allocation of the Aggregate Total Amount Among Netting Members

(A) Allocation of the Aggregate Regular Amount Among Netting Members

The Aggregate Total Amount would be allocated among Netting Members in order to arrive at each Netting Member's Individual Total Amount. FICC would take a tiered approach in its allocation of the Aggregate Total Amount. First, FICC would determine the portion of

¹⁸ According to FICC, it uses a statistical measurement called the "coefficient of variation," which is calculated as the standard deviation divided by the mean, to quantify the variance of Affiliated Families' daily liquidity needs. *Id.* FICC states that this is a typical approach used to compare variability across different data sets. FICC states that it will use the coefficient of variation to set the Liquidity Buffer by quantifying the variance of each Affiliated Family's daily liquidity need. *Id.* FICC believes that a Liquidity Buffer of 20 to 30 percent, subject to a minimum of \$15 billion, would be an appropriate Liquidity Buffer because FICC found that, throughout 2015 and 2016, the coefficient of variation ranged from an average of 15 to 19 percent for Affiliated Families with liquidity needs above \$50 billion, and an average of 18 to 21 percent for Affiliated Families with liquidity needs above \$35 billion. *Id.*

¹⁹ *Id.*

²⁰ *Id.*

the Aggregate Total Amount that should be allocated among all Netting Members ("Aggregate Regular Amount"), which FICC states initially would be set at \$15 billion.²¹ FICC believes that this amount is appropriate because the average Netting Member's liquidity need from 2015 to 2016 was approximately \$7 billion, with a majority of Netting Members having liquidity needs less than \$15 billion.²² Based on that analysis, FICC believes that the \$15 billion Aggregate Regular Amount should capture the liquidity needs of a majority of the Netting Members.²³

Second, as discussed in more detail below, after allocating the \$15 billion Aggregate Regular Amount, FICC would allocate the remainder of the Aggregate Total Amount ("Aggregate Supplemental Amount") among Netting Members that incurred liquidity needs above the Aggregate Regular Amount within the six-month look-back period. For example, a Netting Member with a \$7 billion peak daily liquidity need would only contribute to the \$15 billion Aggregate Regular Amount, based on the calculation described below. Meanwhile, a Netting Member with a \$45 billion Aggregate Regular Amount would contribute towards the \$15 billion Aggregate Regular Amount and the Aggregate Supplemental Amount, as described below. FICC believes that this tiered approach reflects a reasonable, fair, and transparent balance between FICC's need for sufficient liquidity resources and the burdens of the funding obligations on each Netting Member's management of its own liquidity.²⁴

Under the proposal, the Aggregate Regular Amount would be allocated among all Netting Members, but Netting Members with larger Receive Obligations²⁵ would be required to contribute a larger amount. FICC believes that this approach is appropriate because a defaulting Netting Member's Receive Obligations are the primary cash settlement obligations that FICC would have to satisfy as a result

²¹ *Id.*

²² According to FICC, from 2015 to 2016, 59 percent of all Netting Members presented average liquidity needs between \$0 to \$5 billion, 78 percent of all Netting Members presented average liquidity needs between \$0 and \$10 billion, and 85 percent of all Netting Members presented average liquidity needs between \$0 and \$15 billion. *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ "Receive Obligation" means a Netting Member's obligation to receive eligible netting securities from FICC at the appropriate settlement value, either in satisfaction of all or a part of a Net Long Position, or to implement a collateral substitution in connection with a Repo Transaction with a right of substitution. GSD Rules, *supra* note 8.

of the default of an Affiliated Family. However, FICC also believes that, because FICC guarantees both sides of a GSD Transaction and all Netting Members benefit from FICC's risk mitigation practices, some portion of the Aggregate Regular Amount should be allocated based on Netting Members' aggregate Deliver Obligations²⁶ as well.²⁷ As a result, FICC proposes to allocate the Aggregate Regular Amount based on a scaling factor. Given that the Aggregate Regular Amount would be initially sized at \$15 billion and would cover approximately 80 percent of Netting Members' observed liquidity needs, FICC proposes to set the scaling factor in the range of 65 to 85 percent to the value of Netting Members' Receive Obligations, and in the range of 15 to 35 percent to the value of Netting Members' Deliver Obligations.²⁸

FICC states that it would initially assign a 20 percent weighting percentage to a Netting Member's aggregate peak Deliver Obligations ("Deliver Scaling Factor") and the remaining percentage difference, 80 percent in this case, to a Netting Member's aggregate peak Receive Obligations ("Receive Scaling Factor").²⁹ FICC would have the discretion to adjust these scaling factors based on a quarterly analysis that would, in part, assess Netting Members' observed liquidity needs that are at or below \$15 billion. FICC believes that this assessment would help ensure that the Aggregate Regular Amount would be appropriately allocated across all Netting Members.³⁰

(B) FICC's Allocation of the Aggregate Supplemental Amount Among Netting Members

The remainder of the Aggregate Total Amount (*i.e.*, the Aggregate Supplemental Amount) would be allocated among Netting Members that

²⁶ "Deliver Obligation" means a Netting Member's obligation to deliver eligible netting securities to FICC at the appropriate settlement value either in satisfaction of all or a part of a Net Short Position or to implement a collateral substitution in connection with a Repo Transaction with a right of substitution. GSD Rules, *supra* note 8.

²⁷ See Notice, 82 at 13880.

²⁸ *Id.*

²⁹ For example, assume that a Netting Member's peak Receive and Deliver Obligations represent 5 and 3 percent, respectively, of the sum of all Netting Members' peak Receive and Deliver Obligations. The Netting Member's portion of the Aggregate Regular Amount ("Individual Regular Amount") would be \$600 million (\$15 billion * 0.80 Receive Scaling Factor * 0.05 Peak Receive Obligation Percentage), plus \$90 million (\$15 billion * 0.20 Deliver Scaling Factor * 0.03 Peak Deliver Obligation Percentage), for a total of \$690 million.

³⁰ See Notice, 82 at 13882.

present liquidity needs greater than \$15 billion using Liquidity Tiers. As described in greater detail in the Notice, the specific allocation of the Aggregate Supplemental Amount to each Liquidity Tier would be based on the frequency that Netting Members generated liquidity needs within each Liquidity Tier, relative to the other Liquidity Tiers.³¹ More specifically, once the Aggregate Supplemental Amount is divided among the Liquidity Tiers, the amount within each Liquidity Tier would be allocated among the applicable Netting Members, based on the relative frequency that a Netting Member generated liquidity needs within each Liquidity Tier.³² FICC explains that this allocation would result in a larger proportion of the Aggregate Supplemental Amount being borne by those Netting Members who present the highest liquidity needs.³³

The sum of a Netting Member's allocation across all Liquidity Tiers would be such Netting Member's Individual Supplemental Amount. FICC would add each Netting Member's Individual Supplemental Amount (if any) to its Individual Regular Amount to arrive at such Netting Member's Individual Total Amount.

C. FICC's Ongoing Assessment of the Sufficiency of CCLF

As described above, the Aggregate Total Amount and each Netting Member's Individual Total Amount (*i.e.*, each Netting Member's allocation of the Aggregate Total Amount) would initially be calculated using a six-month look-back period that FICC would reset every six months ("reset period"). FICC states that, on a quarterly basis, FICC would assess the following parameters used to calculate the Aggregate Total Amount (and could consider changes to such parameters if necessary and appropriate):

- The largest peak daily liquidity of an Affiliated Family;
- the Liquidity Buffer;
- the Aggregate Regular Amount;
- the Aggregate Supplemental Amount;
- the Deliver Scaling Factor and the Receive Scaling Factor used to allocate the Aggregate Regular Amount;

- the increments for the Liquidity Tiers; and
- the length of the look-back period and the reset period for the Aggregate Total Amount.³⁴

FICC represents that, in the event that any changes to the above-referenced parameters result in an increase in a Netting Member's Individual Total Amount, such increase would be effective as of the next bi-annual reset.³⁵

Additionally, on a daily basis, FICC would examine the Aggregate Total Amount to ensure that it is sufficient to satisfy FICC's liquidity needs. If FICC determines that the Aggregate Total Amount is insufficient to satisfy its liquidity needs, FICC would have the discretion to change the length of the six-month look-back period, the reset period, or otherwise increase the Aggregate Total Amount.

Any increase in the Aggregate Total Amount resulting from FICC's quarterly assessments or FICC's daily monitoring would be subject to approval from FICC management, as described in the Notice.³⁶ Increases to a Netting Member's Individual Total Amount as a result of its daily monitoring would not be effective until ten business days after FICC issues an Important Notice regarding the increase. Reductions to the Aggregate Total Amount would be reflected at the conclusion of the reset period.

D. Implementation of the Proposed Changes and Required Attestation From Each Netting Member

The CCLF proposal would become operative 12 months after the later date of the Commission's no objection of this Advance Notice and its approval of the related Proposed Rule Change. FICC represents that, during this 12-month period, it would periodically provide each Netting Member with estimated Individual Total Amounts. FICC states that the delayed implementation and the estimated Individual Total Amounts are designed to give Netting Members the opportunity to assess the impact that the CCLF proposal would have on their business profile.³⁷

FICC states that, as of the implementation date and annually thereafter, FICC would require that each Netting Member attest that it incorporated its Individual Total Amount into its liquidity plans.³⁸ This required attestation, which would be from an authorized officer of the Netting

Member or otherwise in form and substance satisfactory to FICC, would certify that (i) such officer has read and understands the GSD Rules, including the CCLF rules; (ii) the Netting Member's Individual Total Amount has been incorporated into the Netting Member's liquidity planning;³⁹ (iii) the Netting Member acknowledges and agrees that its Individual Total Amount may be changed at the conclusion of any reset period or otherwise upon ten business days' Notice; (iv) the Netting Member will incorporate any changes to its Individual Total Amount into its liquidity planning; and (v) the Netting Member will continually reassess its liquidity plans and related operational plans, including in the event of any changes to such Netting Member's Individual Total Amount, to ensure such Netting Member's ability to meet its Individual Total Amount. FICC states that it may require any Netting Member to provide FICC with a new certification in the foregoing form at any time, including upon a change to a Netting Member's Individual Total Amount or in the event that a Netting Member undergoes a change in its corporate structure.⁴⁰

On a quarterly basis, FICC would conduct due diligence to assess each Netting Member's ability to meet its Individual Total Amount. This due diligence would include a review of all information that the Netting Member has provided FICC in connection with its ongoing reporting obligations pursuant to the GSD Rules and a review of other publicly available information. FICC also would test its operational procedures for invoking a CCLF Event, and Netting Members would be required to participate in such tests. If a Netting Member failed to participate in such testing when required by FICC, FICC would be permitted to take disciplinary measures as set forth in GSD Rule 3, Section 7.⁴¹

E. Liquidity Funding Reports Provided to Netting Members

On each business day, FICC would make a liquidity funding report available to each Netting Member that would include (i) the Netting Member's Individual Total Amount, Individual Regular Amount and, if applicable, its Individual Supplemental Amount; (ii)

³⁹ According to FICC, the attestation would not refer to the actual dollar amount that has been allocated as the Individual Total Amount. FICC explains that each Netting Member's Individual Total Amount would be made available to such Member via GSD's access controlled portal Web site. *Id.*

⁴⁰ *Id.*

⁴¹ GSD Rules, *supra* note 8.

³¹ See Notice, 82 at 13880–81.

³² For example, if the Aggregate Supplemental Amount is \$50 billion and Tier 1 has a relative frequency weighting of 33 percent, all Netting Members that have generated liquidity needs that fall within Tier 1 would collectively fund \$16.5 billion ($\$50 \text{ billion} \times 0.33$) of the Supplemental Amount. Each Netting Member in that tier would be responsible for contributing toward the \$16.5 billion, based on the relative frequency that the member generated liquidity needs within that tier.

³³ See Notice, 82 at 13882.

³⁴ See Notice, 82 at 13881.

³⁵ See Notice, 82 at 13881–82.

³⁶ *Id.* at 13882.

³⁷ See Notice, 82 at 13883.

³⁸ See Notice, 82 at 13882.

FICC's Aggregate Total Amount, Aggregate Regular Amount and Aggregate Supplemental Amount; and (iii) FICC's regulatory liquidity requirements as of the prior business day. The liquidity funding report would be provided for informational purposes only.

II. Summary of Comments Received

The Commission received four comment letters in response to the proposal. Three comment letters—Ronin Letters I and II and the ICBC Letter—objected to the proposal.⁴² One comment letter from FICC responded to the objections raised by Ronin.⁴³

A. Objecting Comments

In both of its comment letters, Ronin argues that the cost of complying with the CCLF could impose a disproportionately negative economic impact on smaller Netting Members, which could potentially force smaller Netting Members to clear through larger Netting Members or leave GSD (as well as create a barrier to entry for prospective new Netting Members).⁴⁴ Ronin argues that a reduced Netting Member population resulting from these increased costs could, in turn, lead to larger problems, such as: (1) Increasing the size of FICC's exposure to those Netting Members that generate the largest liquidity needs for FICC (because some of the departed Netting Members could become customers of, and clear their transactions through, such remaining Netting Members); (2) increasing Netting Member concentration risk at FICC due to the

⁴² See Ronin Letter I, Ronin Letter II, and ICBC Letter.

⁴³ See FICC Letter. The Ronin Letter II and the ICBC Letter (with Ronin as a co-signatory) raised the same substantive issues as the Ronin Letter I. Accordingly, the Commission considers the FICC Letter to be responsive to the Ronin Letters I and II and the ICBC Letter.

⁴⁴ Ronin Letter I at 2; Ronin Letter II at 1–5. For example, Ronin notes that it would have to pay for access to a committed line of credit each year to have sufficient resources to attest that it can meet its CCLF contribution requirement. Ronin Letter I at 5; Ronin Letter II at 3. Ronin asserts that obtaining such a line of credit is not only “economically disadvantageous” but also “creates a dependency on an external entity which could prove to be an existential threat” (*i.e.*, the inability of non-bank Netting Members to secure a committed line of credit at a reasonable rate could cause such members to exit FICC). Ronin Letter II at 3. In contrast, Ronin suggests that larger Netting Members with access to the Federal Reserve Discount Window (and resulting ability to easily borrow funds using U.S. government debt as collateral) would not necessarily have to pay for such credit lines and could merely inform FICC that they are “good for [the CCLF contribution requirement].” Ronin Letter I at 5. Ronin argues that FICC has “failed to recognize this differential impact as a threat to GSD member diversity.” Ronin Letter II at 3.

reduced overall population of Netting Members following the implementation of the CCLF; and (3) increasing systemic risk because of the increased exposure and concentration risks described above.⁴⁵

Similarly, Ronin and the ICBC Letter argue that the proposal would result in harmful consequences to smaller Netting Members and other industry participants.⁴⁶ Specifically, the ICBC Letter argues that the Proposal could force smaller Netting Members to exit the clearing business or terminate their membership with FICC due to the cost of CCLF funding obligations, thereby: (1) Increasing market concentration; (2) increasing FICC's credit exposure to its largest participant families; and (3) driving smaller Netting Members to clear transactions bilaterally instead of through a central counterparty.⁴⁷

Although Ronin and the ICBC Letter acknowledges that FICC, as a registered clearing agency, is required to maintain sufficient financial resources to withstand a default by the largest

⁴⁵ Ronin Letter I at 1–9; Ronin Letter II at 1–5. Ronin also argues that the Proposed Rule Change would place an unfair and anticompetitive burden on smaller Netting Members and such members do not present any settlement risk to FICC. Ronin Letter I at 2, 5–7; Ronin Letter II at 1–5. Regarding burden, Ronin argues that the cost of obtaining the resources necessary to meet FICC's CCLF contribution requirements could force some smaller non-bank Netting Members to leave GSD or reduce the amount of U.S. Treasury securities transactions they clear through FICC. Ronin Letter I at 2, 5–7; Ronin Letter II at 3–4. Moreover, Ronin suggests that the proposal is unfair because the default of a smaller Netting Member (whose liquidity needs are covered by the liquidity available to FICC in the GSD clearing fund) would not present settlement risk to FICC. Specifically, Ronin notes that, for the period of March 31, 2016 to March 31, 2017, the peak liquidity need of 53 of the 103 GSD Netting Members did not exceed the amount of cash in the GSD clearing fund. Ronin Letter II at 3. In addition, Ronin argues that the CCLF would impose an unfair burden by forcing smaller Netting Members to subsidize the “outsized liquidity risks” posed by the largest Netting Members. Ronin Letter I at 2; Ronin Letter II at 2–3.

These issues are relevant to the Commission's review and evaluation of the Proposed Rule Change, which is conducted under the Exchange Act, but not to the Commission's evaluation of the Advance Notice, which, as discussed below in Section III, is conducted under the Clearing Supervision Act and generally considers whether the proposal will mitigate systemic risk and promote financial stability. Accordingly, these concerns will be addressed in the Commission's review of the related Proposed Rule Change, as applicable, under the Exchange Act.

⁴⁶ Ronin Letter II at 4–5; ICBC Letter at 2–7.

⁴⁷ Ronin Letter II at 4–5; ICBC Letter at 2–6. Like Ronin, the ICBC Letter also argues that increased costs to Netting Members from the CCLF could inhibit competition by forcing smaller Netting Members to exit the clearing business or terminate their membership with FICC. ICBC Letter at 2–4. As discussed above, *see supra* note 19, this concern will be addressed in the Commission's review of the related Proposed Rule Change, as applicable under the Exchange Act.

participant family to which FICC has exposure in “extreme but plausible conditions,”⁴⁸ Ronin and the ICBC Letter argue that the scenario that CCLF is designed to address is not “plausible” because U.S. government securities are riskless assets that would not suffer from a liquidity shortage, even amidst a financial crisis similar to that in 2008.⁴⁹ Moreover, the ICBC Letter argues that the CCLF is unnecessary because FICC's current risk models are “time proven.”⁵⁰ Finally, Ronin argues that if FICC were truly interested in mitigating liquidity risk, a hard cap could be placed on the maximum liquidity exposure allowable for each Netting Member.⁵¹

Ronin and the ICBC Letter also raise potential systemic risk concerns by stating that the CCLF could: (1) Cause FICC members to reduce their balance sheets devoted to the U.S. government securities markets, which would have broad negative effects on markets and taxpayers;⁵² (2) negatively impact traders with hedged positions, potentially resulting in inefficient pricing and an increased likelihood of disruptions in the U.S. government securities markets.⁵³ The ICBC Letter raises additional systemic risk concerns, stating that CCLF could: (1) Result in FICC's refusal to clear certain trades, thereby increasing the burden on the Bank of New York (“BONY”), the only private bank that clears a large portion of U.S. government securities;⁵⁴ and (2) effectively drain liquidity from other markets by requiring more liquidity to be available to FICC than is necessary.⁵⁵

B. Supporting Comment

The FICC Letter written in support of the proposal primarily responds to Ronin's assertions. In response to Ronin's concerns regarding the potential economic impacts on smaller non-bank Netting Members, FICC states that the CCLF was designed to minimize the burden on smaller Netting Members and achieve a fair and appropriate allocation of liquidity burdens.⁵⁶ Specifically, FICC notes that it structured the CCLF so that: (1) Each Netting Member's CCLF requirement would be a function of the peak liquidity risk that each Netting Member's activity presents to GSD; (2) the allocation of the CCLF requirement to each Netting Member would be a

⁴⁸ Ronin Letter II at 4–5; ICBC Letter at 1–2.

⁴⁹ Ronin Letter II at 4–5; ICBC Letter at 3.

⁵⁰ ICBC Letter at 3.

⁵¹ Ronin Letter II at 4.

⁵² *Id.* at 1, 4; Ronin Letter II at 3.

⁵³ ICBC Letter at 4.

⁵⁴ *Id.* at 2, 5.

⁵⁵ *Id.* at 5; Ronin Letter II at 4.

⁵⁶ FICC Letter at 3–4.

“fraction” of the Netting Member’s peak liquidity exposure that it presents to GSD;⁵⁷ and (3) the proposal would fairly allocate higher CCLF requirements to Netting Members that generate higher liquidity needs.⁵⁸ FICC further notes that, since CCLF contributions would be a function of the peak liquidity exposure that each Netting Member presents to FICC, each Netting Member would be able to reduce its CCLF contribution by altering its trading activity.⁵⁹

In response to Ronin’s assertion that the CCLF could promote concentration and systemic risk, FICC argues that the proposal would actually reduce systemic risk. FICC notes that it plays a critical role for the clearance and settlement of securities transactions in the U.S., and, in that role, it assumes risk by guaranteeing the settlement of the transactions it clears.⁶⁰ By providing FICC with committed liquidity to meet its cash settlement obligations to non-defaulting members during extreme market stress, FICC asserts that the CCLF would promote settlement finality to all Netting Members, regardless of size, and the safety and soundness of the securities settlement system, thereby reducing systemic risk.⁶¹

Finally, in response to Ronin’s concern that the CCLF could cause FICC’s liquidity needs to grow, FICC notes that in its outreach to Netting Members over the past two years, bilateral meetings with individual Netting Members, and testing designed to evaluate the impact that changes to a Netting Member’s trading behavior could have on the Historical Cover 1 Liquidity Requirement, FICC has found opportunities for Netting Members to reduce their CCLF requirements and, as a result, decrease the Historical Cover 1 Liquidity Requirement.⁶² Specifically, FICC notes that during its test period, which spanned from December 1, 2016 to January 31, 2017, 35 participating Netting Members voluntarily adjusted their settlement behavior and settlement

patterns to identify opportunities to reduce their CCLF requirements.⁶³ According to FICC, the test resulted in an approximate \$5 billion reduction in GSD’s peak Historical Cover 1 Liquidity Requirement, highlighting that growth of the Historical Cover 1 Liquidity Requirement could be limited under the proposal.⁶⁴

III. Discussion and Commission Findings

Although the Clearing Supervision Act does not specify a standard of review for an advance notice, its stated purpose is instructive: to mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically important financial market utilities (“FMUs”) and strengthening the liquidity of systemically important FMUs.⁶⁵ Section 805(a)(2) of the Clearing Supervision Act⁶⁶ authorizes the Commission to prescribe risk management standards for the payment, clearing, and settlement activities of designated clearing entities and financial institutions engaged in designated activities for which it is the supervisory agency or the appropriate financial regulator. Section 805(b) of the Clearing Supervision Act⁶⁷ states that the objectives and principles for the risk management standards prescribed under Section 805(a) shall be to:

- promote robust risk management;
- promote safety and soundness;
- reduce systemic risks; and
- support the stability of the broader financial system.

The Commission has adopted risk management standards under Section 805(a)(2) of the Clearing Supervision Act⁶⁸ and Section 17A of the Exchange Act (“Rule 17Ad–22”).⁶⁹ Rule 17Ad–22 requires registered clearing agencies to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for their operations and risk management practices on an ongoing basis.⁷⁰ Therefore, it is appropriate for the Commission to review changes proposed in advance notices against both the objectives and principles of these risk management standards, as described in Section 805(b) of the

Clearing Supervision Act and Rule 17Ad–22.⁷¹

A. Consistency With Section 805(b) of the Clearing Supervision Act

The Commission believes that the changes proposed in the Advance Notice are consistent with the objectives and principles described in Section 805(b) of the Clearing Supervision Act.⁷² Specifically, the Commission believes that the proposal is designed to promote robust risk management by reducing the risk that FICC could not meet its cash settlement obligations to non-defaulting Netting Members during a default. As described above, the CCLF would be designed to provide sufficient liquidity to cover the peak cash settlement obligations of the family of affiliated Netting Members that would generate the highest liquidity need for FICC. It also would include an additional Liquidity Buffer to account for unexpected trading behavior that could increase GSD’s Historical Cover 1 Liquidity Requirement or a situation in which a Netting Member with a large CCLF contribution defaults and cannot meet its CCLF requirement.

The Commission also believes that the proposal is designed to reduce systemic risk and support the stability of the broader financial system. As FICC noted, the CCLF is expected to promote settlement finality, as well as safety and soundness of the securities settlement system, by providing FICC with needed liquidity in the event that it experiences severe liquidity pressure from a Netting Member default and by mitigating the risk that reverse repo participants do not receive their cash back in the event of a default of a Netting Member (who, during the normal course of business, would be obligated to supply such cash).⁷³ Given FICC’s importance to the financial system,⁷⁴ the Commission believes that FICC’s ability to settle GSD transactions during such an event could contribute to reducing systemic risks and supporting the stability of the broader financial system. The Commission also believes that the CCLF could support the stability of the broader financial system by providing Netting Members with a pre-determined and capped potential CCLF contribution, which could allow Netting Members to better measure, manage, and control their exposures to FICC.

As noted above, both Ronin and the ICBC Letter express a concern that the increased costs associated with the

⁵⁷ *Id.* at 3. FICC notes that, on average, a Netting Member’s CCLF requirement would be less than 2.5 percent of their respective peak liquidity need, with the smallest Netting Members having a CCLF contribution requirement of approximately 1.5 percent of their peak liquidity need. *Id.* at 4–5.

⁵⁸ *Id.* at 3–4. FICC notes that the Aggregate Regular Amount (proposed to be sized at \$15 billion) would be applied to all Netting Members on a pro-rata basis, while the Aggregate Supplemental Amount, which would make up approximately 80 percent of the Aggregate Total Amount, would only apply to the Netting Members generating the largest liquidity needs (*i.e.*, in excess of \$15 billion). *Id.* at 4.

⁵⁹ *Id.* at 3, 7.

⁶⁰ *Id.* at 7–8.

⁶¹ *Id.*

⁶² *Id.* at 8–9.

⁶³ *Id.* at 9–10.

⁶⁴ *Id.*

⁶⁵ See 12 U.S.C. 5461(b).

⁶⁶ 12 U.S.C. 5464(a)(2).

⁶⁷ 12 U.S.C. 5464(b).

⁶⁸ 12 U.S.C. 5464(a)(2).

⁶⁹ See 17 CFR 240.17Ad–22.

⁷⁰ *Id.*

⁷¹ 12 U.S.C. 5464(b).

⁷² *Id.*

⁷³ See FICC Letter at 7–8.

⁷⁴ See 12 U.S.C. 5463.

CCLF could potentially force some Netting Members to leave FICC. These commenters argue that a reduced Netting Member population resulting from these increased costs could, in turn, lead to larger problems, such as: (1) Increasing the size of FICC's exposure to those Netting Members that generate the largest liquidity needs for FICC (because some of the departed Netting Members could become customers of, and clear their transactions through, such remaining Netting Members); (2) increasing Netting Member concentration risk at FICC due to the reduced overall population of Netting Members following the implementation of the CCLF; and (3) increasing systemic risk because of the increased exposure and concentration risks described above.

In addition, Ronin and the ICBC Letter state their view that the expected costs of the CCLF could discourage market participants from centrally clearing their repo transactions through FICC, encouraging them to execute and manage their repo activity in the bilateral market instead of through a central counterparty. The ICBC Letter similarly argues that increased costs, due to the CCLF, for traders with hedged positions could cause such traders to reduce market activity, which could lead to reduced liquidity, inefficient pricing, and an increased likelihood of disruptions in the U.S. government securities markets.

The Commission notes that the concerns expressed above by Ronin and the ICBC Letter are based upon a number of implicit but also specific assumptions. As discussed immediately below, the Commission does not believe that the basis for these assumptions is clear and, therefore, the Commission is not persuaded that the proposal is inconsistent with Section 805(b) of the Clearing Supervision Act.

First, the magnitude of the stated concerns regarding potential reductions in GSD's Netting Member population, with resultant increases in liquidity demands for FICC, concentration risk, and systemic risk are based upon certain assumptions regarding how existing Netting Members may participate in the cleared repo market following implementation of the CCLF. For example, the concern that the most significant liquidity demands generated by particular Netting Members could increase because of the CCLF is based upon an assumption that departing Netting Members would choose to become customers of, and clear their repo transactions through, the remaining Netting Members that present the largest liquidity demands for FICC.

However, neither Ronin nor the ICBC Letter explain why this outcome is more likely than alternative outcomes, such as departing Netting Members distributing their activity across the breadth of remaining Netting Members that present both large and small liquidity demands for FICC. For FICC's Cover 1 Liquidity Requirement to have increased under such a scenario, not only would a departed Netting Member need to have cleared through the remaining Netting Member that generated FICC's Cover 1 Liquidity Requirement, but it also would need to have contributed to that Netting Member having generated FICC's Cover 1 Liquidity Requirement.

The Commission notes that even granting the underlying assumptions implied by Ronin and the ICBC Letter, the extent to which increases in the largest liquidity demands for FICC would implicate systemic risk concerns could be mitigated by features of the CCLF. As the Commission understands from the proposal and the FICC Letter, the amount of committed resources available under CCLF would, by design, support FICC's ability to meet liquidity obligations in the event of a default of the participant family that would generate the largest aggregate payment obligation.⁷⁵ In other words, the amount of liquidity resources available to FICC under the CCLF would be scaled to FICC's largest liquidity demand, so that even if there were increased concentration and higher liquidity demands, the CCLF would continue to mitigate liquidity risks associated with the default of the participant or participant family that presented the largest liquidity need.

Second, the stated concerns regarding incentives for market participants to choose not to centrally clear their repo transactions through FICC and, instead, execute and manage their repo activity in the bilateral market are based upon certain assumptions regarding how market participants would consider the relative costs and benefits of engaging in cleared repo transactions at FICC versus bilateral repo transactions. For example, the ICBC Letter argues that moving to bilateral repo transactions would be somewhat less efficient than continuing to clear repo transactions at FICC, but that it would be materially less expensive.⁷⁶ However, this conclusion assumes that market participants would be willing to forgo certain benefits of FICC's central clearing process (e.g., centralized netting, reduction of exposures, and the elimination of the

need to maintain multiple risk management and operational relationships with a multitude of counterparties), when moving to bilateral repo transactions, to avoid incurring the cost of committing to provide liquidity to FICC under the CCLF. The ICBC Letter provides no data or evidence to suggest that bilateral clearing would ultimately prove more attractive to firms than central clearing at FICC, after accounting for the benefits of central clearing, even if the CCLF is implemented. Accordingly, the Commission is not persuaded that the proposal is inconsistent with Section 805(b) of the Clearing Supervision Act.

Separately, the Commission also notes, as it understands from the proposal and the FICC Letter, that the CCLF would require each Netting Member to contribute to the CCLF only a "fraction" of the peak liquidity exposure that they present to GSD.⁷⁷ Moreover, FICC has taken steps to enable all Netting Members to manage their commitments under the CCLF. For example, by establishing Netting Members' Individual Total Amounts through a tiered and proportionate approach, most Netting Members⁷⁸ would likely only be required to contribute their respective pro-rata amounts towards the first \$15 billion of the Aggregate Total Amount. Also, the proposal would not require Netting Members to hold or provide to FICC their CCLF contribution (i.e., their Individual Total Amount) prior to a CCLF Event.⁷⁹ Rather, the proposal would require Netting Members to attest to their ability to meet their CCLF requirement should FICC declare a CCLF event. Although Netting Members may incur some costs in securing their CCLF resources, the Commission believes, in light of the benefits that would arise from implementing the CCLF, that those additional costs do not cause the proposal to be inconsistent with Section 805(b) of the Clearing Supervision Act.

The ICBC Letter also raises the concern that the CCLF could transfer risk from FICC to BONY, the only private bank that acts as a tri-party custodian to a large portion of U.S. government securities, if FICC chooses to limit its risk by refusing to clear trades following a default. The Commission notes, however, that, as

⁷⁷ FICC Letter at 3.

⁷⁸ As noted above, from 2015 to 2016, FICC observed that 85 percent of Netting Members had liquidity needs of \$15 billion or less.

⁷⁹ As Ronin notes, a Netting Member could pay for access to a committed line of credit to have sufficient resources to attest that it can meet its CCLF contribution requirement. Ronin Letter at 5.

⁷⁵ FICC Letter at 4.

⁷⁶ ICBC Letter at 3.

proposed, the CCLF does not contemplate the refusal to clear trades following the default of a Netting Member, nor does FICC impose trading limits on Netting Members.⁸⁰ Instead, the CCLF is designed to provide additional liquidity resources as FICC's liquidity needs increase, so that FICC can meet its settlement obligations and continue its clearance and settlement operations. In addition, the Commission notes that the ICBC Letter's concern regarding transferred risk to BONY is based upon the assumption that the proposal could encourage market participants to move their repo transactions away from central clearing through FICC to the bilateral repo market. As already discussed above, the Commission does not believe the basis for this assumption is clear.

For these reasons, the Commission believes that the proposal is consistent with Section 805(b) of the Clearing Supervision Act.

B. Consistency With Exchange Act Rule 17Ad-22

The Commission believes that the proposed changes associated with the CCLF are consistent with the requirements of Rule 17Ad-22(e)(7) under the Exchange Act, which requires FICC to establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively measure, monitor, and manage liquidity risk that arises in or is borne by FICC, including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity.⁸¹

Specifically, Rule 17Ad-22(e)(7)(i) requires policies and procedures for maintaining sufficient liquid resources to effect same-day settlement of payment obligations in the event of a

default of the participant family that would generate the largest aggregate payment obligation for the covered clearing agency in extreme but plausible market conditions.⁸² As described above, the CCLF would be a rules-based, committed repo facility, designed to provide FICC with a liquidity resource in the event that FICC's other liquidity resources prove insufficient during a Netting Member default. Moreover, the CCLF would be sized to meet GSD's peak liquidity need during the prior six months, plus an additional Liquidity Buffer.

The ICBC Letter argues, as summarized above, that FICC's current risk models are "time proven" and the scenario the CCLF is intended to address (*i.e.*, an inability to access liquidity via the U.S. government securities repo market) is implausible. To support this position, the ICBC Letter cites to the 2008 financial crisis, in which the repo market continued to function. Ronin also notes that, for the period of March 31, 2016 to March 31, 2017, the peak liquidity need of 53 of the 103 GSD Netting Members did not exceed the amount of cash in the GSD clearing fund. In response, the Commission first notes that the 2008 financial crisis did not entail a default by a Netting Member that generated the largest liquidity demand on FICC and, therefore, the comparison that the ICBC Letter seeks to draw with the proposal is not clearly applicable. In addition, the Commission believes that extreme but plausible scenarios are not necessarily limited to only those events that have actually happened in the past, but could also include events that could potentially occur in the future. Moreover, the Commission notes that the "time proven" FICC risk models highlighted in the ICBC Letter are risk models that relate to market risk, whereas the CCLF is designed to address liquidity risk—a separate category of risk. Similarly, in response to Ronin's claim regarding the sufficiency of the cash component to the GSD clearing fund to cover the peak liquidity need of 53 of 103 GSD Netting Members over the given period, the Commission notes that the GSD clearing fund is calculated and collected to address market risk, not liquidity risk. The Commission also notes that the composition of the clearing fund, including the cash component, varies over time. Thus, the Commission believes that the proposal is reasonably designed to help FICC effectively measure, monitor, and manage liquidity risk by helping FICC maintain sufficient

qualifying liquid resources to settle the cash obligations of the GSD participant family that would generate the largest liquidity need in extreme but plausible market conditions, consistent with Rule 17Ad-22(e)(7)(i).

Rule 17Ad-22(e)(7)(ii) under the Exchange Act requires policies and procedures for holding qualifying liquid resources sufficient to satisfy payment obligations owed to clearing members.⁸³ Rule 17Ad-22(a)(14) of the Exchange Act defines "qualifying liquid resources" to include, among other things, committed repo agreements without material adverse change provisions, that are readily available and convertible into cash.⁸⁴ As described above, the proposed CCLF is designed to provide FICC with a committed repo facility to help ensure that FICC has sufficient, readily-available liquid resources to meet the cash settlement obligations of the family of affiliated Netting Members generating the largest liquidity need. Therefore, the Commission believes that the proposal is consistent with Rule 17Ad-22(e)(7)(ii).

Rule 17Ad-22(e)(7)(iv) under the Exchange Act requires policies and procedures for undertaking due diligence to confirm that FICC has a reasonable basis to believe each of its liquidity providers, whether or not such liquidity provider is a clearing member, has: (a) Sufficient information to understand and manage the liquidity provider's liquidity risks; and (b) the capacity to perform as required under its commitments to provide liquidity.⁸⁵ As described above in Section II.D.3, FICC would require GSD Netting Members to attest that they have accounted for their potential Individual Total Amount, and FICC has had discussions with Netting Members regarding ways Netting Members, regardless of size or access to bank affiliates, can meet this requirement.⁸⁶ Moreover, FICC proposes to conduct due diligence on a quarterly basis to assess each Netting Member's ability to meet its Individual Total Amount. According to FICC, this due diligence would include a review of all information that the Netting Member provided FICC in connection with its ongoing reporting requirements, as well as a review of other publicly available information.

Ronin's assertion that certain Netting Members could merely submit an attestation declaring that they "are good

⁸⁰ The Commission also notes that Ronin, in the Ronin Letter II, recommended that, as an alternative approach to the CCLF, FICC could impose a hard cap on the maximum liquidity exposure allowable for each Netting Member. As an initial matter, the Commission notes that this comment suggests an approach not provided for in the proposal submitted to the Commission. In addition, the Commission notes that the commenter has not explained or demonstrated how the absence of a hard cap would cause the proposal to be inconsistent with the Clearing Supervision Act.

⁸¹ 17 CFR 240.17Ad-22(e)(7). Although the commenters discuss the proposal in the context of Rule 17Ad-22(b)(3), the Commission has analyzed the proposal under Rule 17Ad-22(e)(7). As noted in the Commission's adoption of Rule 17Ad-22(e), while Rule 17Ad-22(e) may overlap with some requirements in Rule 17Ad-22(b), it is not inconsistent with Rule 17Ad-22(b) and, as a general matter, includes requirements intended to supplement the more general requirements in Rule 17Ad-22(b). See Securities Exchange Act Release No. 78961 (September 28, 2016), 81 FR 70786 (October 13, 2016).

⁸² 17 CFR 240.17Ad-22(e)(7)(i).

⁸³ 17 CFR 240.17Ad-22(e)(7)(ii).

⁸⁴ 17 CFR 240.17Ad-22(a)(14).

⁸⁵ 17 CFR 240.17Ad-22(e)(7)(iv).

⁸⁶ See FICC Letter at 9.

for” their CCLF contribution⁸⁷ fails to account for the fact that the proposal also requires FICC to conduct its own due diligence. Specifically, FICC would confirm that Netting Members have sufficient information to understand and manage their liquidity risks and to meet its commitments to provide liquidity. Therefore, the Commission believes that the proposal is consistent with Rule 17Ad-22(e)(7)(iv).

Finally, Rule 17Ad-22(e)(7)(v) under the Exchange Act requires policies and procedures for maintaining and testing with each liquidity provider, to the extent practicable, FICC’s procedures and operational capacity for accessing its relevant liquid resources. As described above, under the proposal, FICC would test its operational procedures for invoking a CCLF Event and require Netting Members to participate in such tests. Therefore, the Commission believes that the proposal is consistent with Rule 17Ad-22(e)(7)(v).

IV. Conclusion

It is therefore noticed, pursuant to Section 806(e)(1)(I) of the Clearing Supervision Act,⁸⁸ that the Commission DOES NOT OBJECT to advance notice SR-FICC-2017-802 and that FICC hereby is AUTHORIZED to implement the change as of the date of this notice or the date of an order by the Commission approving proposed rule change SR-FICC-2017-002 that reflects the changes that are consistent with this Advance Notice, whichever is later.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2017-14145 Filed 7-5-17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81056; File No. SR-LCH SA-2017-005]

Self-Regulatory Organizations; LCH SA; Order Approving Proposed Rule Change, as Amended by Amendment No. 1 Thereto, To Add Rules Related to the Clearing of CDX.NA.HY CDS

June 30, 2017.

I. Introduction

On April 28, 2017, Banque Centrale de Compensation, which conducts business under the name LCH SA (“LCH SA”), 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 (SR-LCH SA-2017-005) to amend LCH SA’s CDS Margin Framework and CDSClear Default Fund Methodology in order to permit LCH SA to clear CDS contracts on the CDX.NA.HY index. On May 5, 2017, LCH SA filed Amendment No. 1.³ The proposed rule change was published in the **Federal Register** on May 17, 2017.⁴ The Commission received no comment letters regarding the proposed change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

LCH SA has proposed various changes to its CDS Margin Framework and CDSClear Default Fund Methodology for the purpose of permitting LCH SA to clear CDS contracts on the CDX.NA.HY index.

A. Changes to CDS Margin Framework

With respect to the CDS Margin Framework, LCH SA proposed to amend the short charge component of its margin methodology to provide a description of the purpose of the short charge, noting that it is intended to account for the probability of a credit event occurring during the period from the default of a Clearing Member to liquidation of the defaulting Clearing Member’s portfolio, as well as to adjust the method for calculating the short charge to account for CDX.NA.HY index contracts. Under its current CDS Margin Framework, LCH SA calculates the short charge component by taking the larger of (1) a “Global Short Charge,” derived from the Clearing Member’s top net short exposure with respect to any CDS contract and its top net short exposure among the three “riskiest” reference entities (of any type), *i.e.* those that are most likely to default, in the Clearing Member’s portfolio, and (2) the top two net short exposures with respect to CDS contracts on senior financial entities.⁵ LCH SA believes that high yield entities are riskier than senior financial entities, and as a result it proposed to introduce a “High Yield Short Charge” that would replace the top two net short exposures to CDS on senior financial entities in its

approach to calculating the short charge.⁶ Consequently, the short charge under the proposed rule change would be the greater of (1) the “Global Short Charge,” as described above, and (2) a “High Yield Short Charge,” calculated from a member’s top net short exposure (with respect to high yield CDS) and its top two net short exposures among the three “riskiest” reference entities in the high yield category in the Clearing Member’s portfolio.⁷

LCH SA also proposed to make certain conforming changes throughout Section 4.1.1 of the CDS Margin Framework, which describes the “net short exposure” calculation, to refer to CDX.NA.HY contracts, as well as to clarify that in order to calculate margin in Euros, all US dollar denominated variables are converted to Euros utilizing the current USD/Euro foreign exchange rate and calibrated haircut based upon historical data. Furthermore, LCH SA proposed conforming changes to Section 4.1.2 of the CDS Margin Framework, which describes the “top exposure” component of the short charge and Section 4.1.3 of the CDS Margin Framework, which describes the process by which LCH SA identifies the “riskiest” entities (of any type) in determining the short charge, to incorporate terms for CDX.NA.HY index contracts and to clarify the calculation as it applies to high yield indices. LCH SA also proposed clarifying changes to Section 4.1.4 of the CDS Margin Framework to summarize the calculation for the short charge amount.⁸

LCH SA proposed to amend the CDS Margin Framework by deleting Section 4.3 in its entirety because the substance of that section would be contained in other sections of the CDS Margin Framework as a result of the proposed changes described above.⁹

In addition, LCH SA also proposed to amend Section 5.1 of the CDS Margin Framework, which sets forth the wrong way risk (“WWR”) component of LCH SA’s margin methodology. According to LCH SA, the current approach leverages the short charge framework by calculating the top two net short exposures of financial entities in a Clearing Member’s portfolio following the calculation described above for the short charge margin. LCH SA then compares these top two net short exposures of financial entities to the Global Short Charge and imposes the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ LCH SA filed Amendment No. 1 to replace the initial filing in its entirety in order to clarify certain changes to the CDSClear Margin Framework.

⁴ Securities Exchange Act Release No. 34-80666 (May 11, 2017), 82 FR 22699 (May 17, 2017) (SR-LCH SA-2017-005) (“Notice”).

⁵ Notice, 82 FR at 22700.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

⁸⁷ Ronin Letter at 2.

⁸⁸ 12 U.S.C. 5465(e)(1)(I).

greater of those two as the short charge, which addresses the WWR arising from the correlation between a Clearing Member default and the default(s) of the top two financial entities in the Clearing Member's portfolio.¹⁰ The proposed rule change amends Section 5.1 of the CDS Margin Framework to make the WWR component more explicit, such that, when the top two net short exposures in respect of financial entities exceeds the short charge margin, as amended to equal the greater of the Global Short Charge and the High Yield Short Charge, LCH SA will charge the incremental amount that is attributable to the top two financial entities as part of the WWR Margin.¹¹

LCH SA further proposed to amend a heading in Section 3 and a table in Section 3.1.1 to clarify that the summary of the margin framework also applies to CDX HY contracts. Additional conforming changes in the CDS Margin Framework were proposed with respect to Sections 5, 6, 8, 10, and 11 of the CDS Margin Framework to clarify that the those sections also apply to high yield indices.¹²

B. Changes to CDS Clear Default Fund Methodology

LCH SA also proposed changes to its CDS Clear Default Fund Methodology. Specifically, LCH SA proposed to amend Section 2.3 of the CDS Clear Default Fund Methodology to modify the existing stressed short charge. Under its current approach, LCH SA calculates a stressed short charge, which equals the greater of (1) the top net short exposure plus the top two net short exposures among the three entities most likely to default in the Clearing Member's portfolio, and (2) the top two net short exposures which are senior financial entities plus the top net short exposures among the three riskiest senior financial entities in the Clearing Member's portfolio. Under the proposed rule change, LCH SA will take the default of high yield entities into account and add a third prong to the stressed short charge calculation which will take the greater of (1) and (2) as described above in this paragraph, or (3) the top two net short exposures which are high yield entities plus the top two net short exposures among the three high yield entities most likely to default in the Clearing Member's portfolio.¹³

Finally, LCH SA also proposed to amend Section 3.8 of the CDS Clear Default Fund Methodology, which

describes the correlation between index families and series, to reflect that additional data will be used.¹⁴

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act¹⁵ directs the Commission to approve a proposed rule of a self-regulatory organization if the Commission finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act¹⁶ requires, in relevant part, that the rules of a registered clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions. Rule 17Ad-22(b)(2)¹⁷ requires, in relevant part, a registered clearing agency that performs central counterparty services to establish, implement, maintain and enforce written policies and procedures reasonably designed to use margin requirements to limit its credit exposures to participants under normal market conditions and use risk-based models and parameters to set margin requirements. Rule 17Ad-22(b)(3)¹⁸ requires, in relevant part, a registered clearing agency that performs central counterparty services to establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain additional financial resources sufficient to withstand, at a minimum, a default by the two participant families to which it has the largest exposures in extreme but plausible market conditions where such registered clearing agency acts as a central counterparty for security-based swaps. Rule 17Ad-22(e)(4)(i) and (ii)¹⁹ require a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence, and for a covered clearing agency involved in activities with a more complex risk profile,²⁰ maintaining additional

financial resources at the minimum to enable it to cover a wide range of foreseeable stress scenarios that include, but are not limited to, the default of the two participant families that would potentially cause the largest aggregate credit exposure for the covered clearing agency in extreme but plausible market conditions. Finally, Rule 17Ad-22(e)(6)(i)²¹ requires a covered clearing agency that provides central counterparty services to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio and market.

The Commission finds that the proposed rule change, which amends LCH SA's CDS Margin Framework and CDS Clear Default Fund Methodology to permit LCH SA to clear CDS contracts on the CDX.NA.HY index, is consistent with Section 17A of the Act and the applicable provisions of Rule 17Ad-22 thereunder. By amending its CDS Margin Framework, LCH SA amends the approach to its short charge component of its margin methodology to consider the specific risks associated with, and incorporate parameters addressing the risks, associated with clearing contracts on the CDX.NA.HY index, and as a result, LCH SA will be able to calculate margin requirements to cover its exposures associated with clearing contracts on the CDX.NA.HY index. Therefore, the Commission finds that the proposed rule changes are consistent with Rule 17Ad-22(b)(2), 17Ad-22(e)(4)(i), and 17Ad-22(e)(6)(i).

Additionally, by amending its CDS Clear Default Fund Methodology to change the manner in which it calculates its short charge to consider the risks introduced by clearing contracts on the CDX.NA.HY index, the Commission believes that LCH SA will be able to more appropriately calculate and maintain the financial resources necessary to cover the default of by the two participant families to which it has the largest exposures in extreme but plausible market conditions. Therefore, the Commission finds that the proposed rule change is consistent with the requirements of Rule 17Ad-22(b)(3) and Rule 17Ad-22(e)(4)(ii).

Because the proposed rule change amends LCH SA's CDS Margin Framework and CDS Clear Default Fund Methodology in such a manner as to

¹⁴ *Id.*

¹⁵ 15 U.S.C. 78s(b)(2)(C).

¹⁶ 15 U.S.C. 78q-1(b)(3)(F).

¹⁷ 17 CFR 240.17Ad-22(b)(2).

¹⁸ 17 CFR 240.17Ad-22(b)(3).

¹⁹ 17 CFR 240.17Ad-22(e)(4)(i) and (ii).

²⁰ Rule 17Ad-22(a)(4)(i) defines a covered clearing agency involved in activities with a more complex risk profile as a clearing agency registered with the Commission under Section 17A of the Act that provides central counterparty services for security-based swaps. See 17 CFR 240.17Ad-22(a)(4)(i).

²¹ 17 CFR 240.17Ad-22(e)(6)(i).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

allow LCH SA to more appropriately take into consideration the risks associated with clearing contracts on the CDX.NA.HY index, and to collect margin and other financial resources that reflect such risks, the Commission believes that the proposed changes are designed to promote the prompt and accurate clearance and settlement of such contracts. As a result, the Commission finds that the proposed rule changes are consistent with Section 17A(b)(3)(F) of the Act.

IV. Conclusion

It is therefore ordered pursuant to Section 19(b)(2) of the Act that the proposed rule change (SR-LCH SA-2017-005), as amended by Amendment No. 1, be, and hereby is, approved.²²

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.²³

Brent J. Fields,

Secretary.

[FR Doc. 2017-14239 Filed 7-5-17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81053; File No. SR-FINRA-2017-020]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Adopt FINRA Rule 6898 (Consolidated Audit Trail—Fee Dispute Resolution)

June 29, 2017.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or the “Exchange Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that, on June 19, 2017, Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“SEC” or the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

²² In approving the proposed rule change, the Commission considered the proposal’s impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

²³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to adopt FINRA Rule 6898 (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.³

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.

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

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., FINRA, Investors’ Exchange LLC, Miami International Securities Exchange, LLC, MIAx PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,⁴ NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.⁵ (collectively, the

³ Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein or in the Consolidated Audit Trail Funding Fees Rule, the CAT Compliance Rule Series or in the CAT NMS Plan.

⁴ ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. See Securities Exchange Act Release No. 80248 (March 15, 2017), 82 FR 14547 (March 21, 2017); Securities Exchange Act Release No. 80326 (March 29, 2017), 82 FR 16460 (April 4, 2017); and Securities Exchange Act Release No. 80325 (March 29, 2017), 82 FR 16445 (April 4, 2017).

⁵ National Stock Exchange, Inc. has been renamed NYSE National, Inc. See Securities Exchange Act Release No. 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017).

“Participants”) filed with the Commission, pursuant to Section 11A of the Exchange Act⁶ and Rule 608 of Regulation NMS thereunder,⁷ the National Market System Plan Governing the Consolidated Audit Trail (the “CAT NMS Plan” or “Plan”).⁸ The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act.⁹ The Plan was published for comment in the **Federal Register** on May 17, 2016,¹⁰ and approved by the Commission, as modified, on November 15, 2016.¹¹ The Plan is designed to create, implement and maintain a consolidated audit trail (“CAT”) that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the “Company”), of which each Participant is a member, to operate the CAT.¹² Under the CAT NMS Plan, the Operating Committee of the Company (“Operating Committee”) has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (“CAT Fees”).¹³ The Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.¹⁴ Accordingly, FINRA has filed a proposed rule change with the SEC to adopt the Consolidated Audit Trail Funding Fees, which will require Industry Members that are FINRA members to pay the CAT Fees determined by the Operating Committee.¹⁵ FINRA submits this

⁶ 15 U.S.C. 78k-1.

⁷ 17 CFR 242.608.

⁸ See Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 23, 2015, the Participants submitted an amendment to the CAT NMS Plan. See Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

⁹ 17 CFR 242.613.

¹⁰ Securities Exchange Act Release No. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016).

¹¹ Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (“Approval Order”).

¹² The Plan also serves as the limited liability company agreement for the Company.

¹³ Section 11.1(b) of the CAT NMS Plan.

¹⁴ See *supra* note 12 [sic].

¹⁵ See Securities Exchange Act Release No. 80710 (May 17, 2017), 82 FR 23629 [sic] (May 23, 2017) (SR-FINRA-2017-011).

proposed rule change to adopt FINRA Rule 6898 (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members. Proposed Rule 6898 is described below.

(1) Definitions

Paragraph (a) of proposed Rule 6898 sets forth the definitions for proposed Rule 6898. Paragraph (a)(1) of proposed Rule 6898 states that, for purposes of Rule 6898, the terms “CAT NMS Plan”, “Industry Member”, “Operating Committee”, and “Participant” are defined as set forth in the Rule 6810 (Consolidated Audit Trail Compliance Rule—Definitions), and the term “CAT Fee” is defined as set forth in the Rule 6897 (Consolidated Audit Trail Funding Fees). In addition, FINRA proposes to add paragraph (a)(2) to proposed Rule 6898. New paragraph (a)(2) would define the term “Subcommittee” to mean a subcommittee designated by the Operating Committee pursuant to the CAT NMS Plan. This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan.

(2) Fee Dispute Resolution

Section 11.5 of the CAT NMS Plan requires Participants to adopt rules requiring that disputes with respect to fees charged to Industry Members pursuant to the CAT NMS Plan be determined by the Operating Committee or Subcommittee. Section 11.5 of the CAT NMS Plan also states that decisions by the Operating Committee or Subcommittee on such matters shall be binding on Industry Members, without prejudice to the right of any Industry Member to seek redress from the SEC pursuant to SEC Rule 608 of Regulation NMS,¹⁶ or in any other appropriate forum. FINRA proposes to adopt paragraph (b) of proposed Rule 6898. Paragraph (b) of proposed Rule 6898 states that disputes initiated by an Industry Member with respect to CAT Fees charged to such Industry Member pursuant to the Consolidated Audit Trail Funding Fees, including disputes related to the designated tier and the fee calculated pursuant to such tier, shall be resolved by the Operating Committee, or a Subcommittee designated by the Operating Committee of the CAT NMS Plan, pursuant to the Fee Dispute Resolution Procedures adopted pursuant to the CAT NMS Plan and set forth in paragraph (c) of proposed Rule 6898. Decisions on such matters shall be binding on Industry Members, without prejudice to the rights of any such

Industry Member to seek redress from the SEC or in any other appropriate forum.

The Operating Committee has adopted “Fee Dispute Resolution Procedures” governing the manner in which disputes regarding CAT Fees charged pursuant to the Consolidated Audit Trail Funding Fees will be addressed. These Fee Dispute Resolution Procedures, as they relate to Industry Members, are set forth in paragraph (c) of proposed Rule 6898. Specifically, the Fee Dispute Resolution Procedures provide the procedure for Industry Members that dispute CAT Fees charged to such Industry Member pursuant to one or more of the Participants’ Consolidated Audit Trail Funding Fees Rules, including disputes related to the designated tier and the fee calculated pursuant to such tier, to apply for an opportunity to be heard and to have the CAT Fees charged to such Industry Member reviewed. The Procedures are modeled after the adverse action procedures adopted by various exchanges,¹⁷ and will be posted on the Web site for the CAT NMS Plan.¹⁸

Under these Procedures, an Industry Member that disputes CAT Fees charged to such Industry Member and that desires to have an opportunity to be heard with respect to such disputed CAT Fees must file a written application with the Company within 15 business days after being notified of such disputed CAT Fees. The application must identify the disputed CAT Fees, state the specific reasons why the applicant takes exception to such CAT Fees, and set forth the relief sought. In addition, if the applicant intends to submit any additional documents, statements, arguments or other material in support of the application, the same should be so stated and identified.

The Company will refer applications for hearing and review promptly to the Subcommittee designated by the Operating Committee pursuant to Section 4.12 of the CAT NMS Plan with responsibility for conducting the reviews of CAT Fee disputes pursuant to these Procedures. This Subcommittee will be referred to as the Fee Review Subcommittee. The members of the Fee Review Subcommittee will be subject to the provisions of Section 4.3(d) of the CAT NMS Plan regarding recusal and Conflicts of Interest. The Fee Review

Subcommittee will keep a record of the proceedings.

The Fee Review Subcommittee will hold hearings promptly. The Fee Review Subcommittee will set a hearing date. The parties to the hearing shall furnish the Fee Review Subcommittee with all materials relevant to the proceedings at least 72 hours prior to the date of the hearing. Each party will have the right to inspect and copy the other party’s materials prior to the hearing.

The parties to the hearing will consist of the applicant and a representative of the Company who shall present the reasons for the action taken by the Company that allegedly aggrieved the applicant. The applicant is entitled to be accompanied, represented and advised by counsel at all stages of the proceedings.

The Fee Review Subcommittee will determine all questions concerning the admissibility of evidence and will otherwise regulate the conduct of the hearing. Each of the parties will be permitted to make an opening statement, present witnesses and documentary evidence, cross examine opposing witnesses and present closing arguments orally or in writing as determined by the Fee Review Subcommittee. The Fee Review Subcommittee also will have the right to question all parties and witnesses to the proceeding. The Fee Review Subcommittee must keep a record of the hearing. The formal rules of evidence will not apply.

The Fee Review Subcommittee must set forth its decision in writing and send the written decision to the parties to the proceeding. Such decisions will contain the reasons supporting the conclusions of the Fee Review Subcommittee.

The decision of the Fee Review Subcommittee will be subject to review by the Operating Committee either on its own motion within 20 business days after issuance of the decision or upon written request submitted by the applicant within 15 business days after issuance of the decision. The applicant’s petition must be in writing and must specify the findings and conclusions to which the applicant objects, together with the reasons for such objections. Any objection to a decision not specified in writing will be considered to have been abandoned and may be disregarded. Parties may petition to submit a written argument to the Operating Committee and may request an opportunity to make an oral argument before the Operating Committee. The Operating Committee will have sole discretion to grant or deny either request.

¹⁷ See, e.g., Chapter X of BATS BZX Exchange, Inc. (Adverse Action); and Chapter X of NYSE National, Inc. (Adverse Action).

¹⁸ The CAT NMS Plan Web site is available at <http://www.catnmsplan.com/>.

¹⁶ 17 CFR 242.608.

The Operating Committee will conduct the review. The review will be made upon the record and will be made after such further proceedings, if any, as the Operating Committee may order. Based upon such record, the Operating Committee may affirm, reverse or modify, in whole or in part, the decision of the Fee Review Subcommittee. The decision of the Operating Committee will be in writing, will be sent to the parties to the proceeding and will be final.

The Procedures state that a final decision regarding the disputed CAT Fees by the Operating Committee, or the Fee Review Subcommittee (if there is no review by the Operating Committee), must be provided within 90 days of the date on which the Industry Member filed a written application regarding disputed CAT Fees with the Company. The Operating Committee may extend the 90-day time limit at its discretion.

In addition, the Procedures state that any notices or other documents may be served upon the applicant either personally or by leaving the same at its, his or her place of business or by deposit in the United States post office, postage prepaid, by registered or certified mail, addressed to the applicant at its, his or her last known business or residence address. The Procedures also state that any time limits imposed under the Procedures for the submission of answers, petitions or other materials may be extended by permission of the Operating Committee. All papers and documents relating to review by the Fee Review Subcommittee or the Operating Committee must be submitted to the Fee Review Subcommittee or Operating Committee, as applicable.

The Procedures also note that decisions on such CAT Fee disputes made pursuant to these Procedures will be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC, or in any other appropriate forum.

Finally, an Industry Member that files a written application with the Company regarding disputed CAT Fees in accordance with these Procedures is not required to pay such disputed CAT Fees until the dispute is resolved in accordance with these Procedures, including any review by the SEC, or in any other appropriate forum. For these purposes, the disputed CAT Fees means the amount of the invoiced CAT Fees that the Industry Member has asserted pursuant to these Procedures that such Industry Member does not owe to the Company. The Industry Member must pay any invoiced CAT Fees that are not

disputed CAT Fees when due as set forth in the original invoice.

Once the dispute regarding CAT Fees is resolved pursuant to these Procedures, if it is determined that the Industry Member owes any of the disputed CAT Fees, then the Industry Member must pay such disputed CAT Fees that are owed, as well as interest on such disputed CAT Fees from the original due date (that is, 30 days after receipt of the original invoice of such CAT Fees) until such disputed CAT Fees are paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

If the Commission approves the proposed rule change, FINRA will announce the implementation date of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission approval. The effective date will be no later than 120 days following publication of the *Regulatory Notice* announcing Commission Approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,¹⁹ 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)(5) of the Act,²⁰ which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls.

FINRA believes that this proposal is consistent with the Act because it implements, interprets or clarifies Section 11.5 of the Plan, and is designed to assist FINRA and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan "is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act."²¹ To the extent that this proposal implements, interprets or clarifies the Plan and

applies specific requirements to Industry Members, FINRA believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

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 of the purposes of the Act. FINRA notes that the proposed rule change implements Section 11.5 of the CAT NMS Plan approved by the Commission, and is designed to assist FINRA in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing this proposed rule to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing, and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the 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-2017-020 on the subject line.

¹⁹ 15 U.S.C. 78o-3(b)(6).

²⁰ 15 U.S.C. 78o-3(b)(5).

²¹ Approval Order at 84697.

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-2017-020. 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-FINRA-2017-020, and should be submitted on or before July 27, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²²

Jill M. Peterson,
Assistant Secretary.

[FR Doc. 2017-14144 Filed 7-5-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-32717]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

June 30, 2017.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of June 2017.

A copy of each 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. An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 25, 2017, and should be accompanied by proof of service on 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: The Commission: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

FOR FURTHER INFORMATION CONTACT: Hae-Sung Lee, Attorney-Adviser, at (202) 551-7345 or Chief Counsel's Office at (202) 551-6821; SEC, Division of Investment Management, Chief Counsel's Office, 100 F Street NE., Washington, DC 20549-8010.

SunAmerica Goldman Sachs Diversified Yield Fund, Inc. [File No. 811-22869]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Date: The application was filed on May 23, 2017.

Applicant's Address: Harborside 5, 185 Hudson Street, Suite 3300, Jersey City, New Jersey 07311.

Institutional Investor Trust [File No. 811-22429]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On July 27, 2016, applicant made a liquidating distribution to its shareholders, based on net asset value. No expenses were incurred in connection with the liquidation.

Filing Date: The application was filed on May 26, 2017.

Applicant's Address: 1400 Center Road, Venice, Florida 34292.

RiverSource Diversified Income Series, Inc. [File No. 811-02503]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has transferred its assets to Columbia Diversified Bond Fund, a series of Columbia Funds Series Trust II and, on March 7, 2011, made a final distribution to its shareholders based on net asset value. Expenses of approximately \$183,001 incurred in connection with the reorganization were paid by the applicant's investment adviser.

Filing Dates: The application was filed on December 16, 2016, and amended on June 5, 2017.

Applicant's Address: 50606 Ameriprise Financial Center, Minneapolis, Minnesota 55474.

RiverSource Large Cap Series, Inc. [File No. 811-02111]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has transferred its assets to Columbia Large Core Quantitative Fund, a series of Columbia Funds Series Trust II and, on March 7, 2011, made a final distribution to its shareholders based on net asset value. Expenses of approximately \$183,001 incurred in connection with the reorganization were paid by the applicant's investment adviser.

Filing Dates: The application was filed on December 16, 2016, and amended on June 5, 2017.

Applicant's Address: 50606 Ameriprise Financial Center, Minneapolis, Minnesota 55474.

RiverSource Short Term Investments Series, Inc. [File No. 811-21914]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has transferred its assets to Columbia Short-Term Cash Fund, a series of Columbia Funds Series Trust II and, on March 7, 2011, made a final distribution to its shareholders based on net asset value. Expenses of approximately \$183,001 incurred in connection with the reorganization were paid by the applicant's investment adviser.

Filing Dates: The application was filed on December 16, 2016, and amended on June 5, 2017.

Applicant's Address: 50606 Ameriprise Financial Center, Minneapolis, Minnesota 55474.

²² 17 CFR 200.30-3(a)(12).

RiverSource Money Market Series, Inc. [File No. 811-02591]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has transferred its assets to Columbia Money Market Fund, a series of Columbia Funds Series Trust II and, on March 7, 2011, made a final distribution to its shareholders based on net asset value. Expenses of approximately \$183,001 incurred in connection with the reorganization were paid by the applicant's investment adviser.

Filing Dates: The application was filed on December 16, 2016, and amended on June 5, 2017.

Applicant's Address: 50606 Ameriprise Financial Center, Minneapolis, Minnesota 55474.

RiverSource High Yield Income Series, Inc. [File No. 811-03848]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has transferred its assets to Columbia High Yield Bond Fund, a series of Columbia Funds Series Trust II and, on March 7, 2011, made a final distribution to its shareholders based on net asset value. Expenses of approximately \$183,001 incurred in connection with the reorganization were paid by the applicant's investment adviser.

Filing Dates: The application was filed on December 16, 2016, and amended on June 5, 2017.

Applicant's Address: 50606 Ameriprise Financial Center, Minneapolis, Minnesota 55474.

RiverSource Equity Series, Inc. [File No. 811-00772]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has transferred its assets to Columbia Mid Cap Growth Opportunity Fund, a series of Columbia Funds Series Trust II and, on March 7, 2011, made a final distribution to its shareholders based on net asset value. Expenses of approximately \$183,001 incurred in connection with the reorganization were paid by the applicant's investment adviser.

Filing Dates: The application was filed on December 16, 2016, and amended on June 5, 2017.

Applicant's Address: 50606 Ameriprise Financial Center, Minneapolis, Minnesota 55474.

Columbia Government Money Market Fund, Inc. [File No. 811-02650]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has

transferred its assets to Columbia Government Money Market Fund, a series of Columbia Funds Series Trust II and, on March 7, 2011, made a final distribution to its shareholders based on net asset value. Expenses of approximately \$183,001 incurred in connection with the reorganization were paid by the applicant's investment adviser.

Filing Dates: The application was filed on December 16, 2016, and amended on June 5, 2017.

Applicant's Address: 50606 Ameriprise Financial Center, Minneapolis, Minnesota 55474.

Seligman Portfolios, Inc. [File No. 811-05221]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has transferred its assets to Columbia Variable Portfolio—Mid Cap Growth Fund, a series of Columbia Funds Variable Insurance Trust I and, on May 2, 2011, made a final distribution to its shareholders based on net asset value. Expenses of approximately \$183,001 incurred in connection with the reorganization were paid by the applicant's investment adviser.

Filing Dates: The application was filed on December 16, 2016, and amended on June 5, 2017.

Applicant's Address: 50606 Ameriprise Financial Center, Minneapolis, Minnesota 55474.

RiverSource Strategy Series, Inc. [File No. 811-03956]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has transferred its assets to Columbia Equity Value Fund, a series of Columbia Funds Series Trust II and, on March 7, 2011, made a final distribution to its shareholders based on net asset value. Expenses of approximately \$183,001 incurred in connection with the reorganization were paid by the applicant's investment adviser.

Filing Dates: The application was filed on December 16, 2016, and amended on June 5, 2017.

Applicant's Address: 50606 Ameriprise Financial Center, Minneapolis, Minnesota 55474.

Seligman Global Fund Series, Inc. [File No. 811-06485]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has transferred its assets to Columbia Seligman Global Technology Fund, a series of Columbia Funds Series Trust II and, on March 7, 2011, made a final

distribution to its shareholders based on net asset value. Expenses of approximately \$183,001 incurred in connection with the reorganization were paid by the applicant's investment adviser.

Filing Dates: The application was filed on December 16, 2016, and amended on June 5, 2017.

Applicant's Address: 50606 Ameriprise Financial Center, Minneapolis, Minnesota 55474.

Columbia Frontier Fund, Inc. [File No. 811-04078]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has transferred its assets to Columbia Frontier Fund, a series of Columbia Funds Series Trust II and, on March 7, 2011, made a final distribution to its shareholders based on net asset value. Expenses of approximately \$183,001 incurred in connection with the reorganization were paid by the applicant's investment adviser.

Filing Dates: The application was filed on December 16, 2016, and amended on June 5, 2017.

Applicant's Address: 50606 Ameriprise Financial Center, Minneapolis, Minnesota 55474.

Columbia Seligman Communications & Information Fund, Inc. [File No. 811-03596]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has transferred its assets to Columbia Seligman Communications and Information Fund, a series of Columbia Funds Series Trust II and, on March 7, 2011, made a final distribution to its shareholders based on net asset value. Expenses of approximately \$183,001 incurred in connection with the reorganization were paid by the applicant's investment adviser.

Filing Dates: The application was filed on December 16, 2016, and amended on June 5, 2017.

Applicant's Address: 50606 Ameriprise Financial Center, Minneapolis, Minnesota 55474.

RiverSource Bond Series, Inc. [File No. 811-03178]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Each series of applicant has transferred its assets to a corresponding series of Columbia Funds Series Trust II and, on March 7, 2011, made a final distribution to its shareholders based on net asset value. Expenses of approximately \$732,003 incurred in connection with the

reorganization were paid by the applicant's investment adviser.

Filing Dates: The application was filed on December 16, 2016, and amended on June 5, 2017.

Applicant's Address: 50606 Ameriprise Financial Center, Minneapolis, Minnesota 55474.

RS Investment Trust [File No. 811-05159]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Each series of applicant has transferred its assets to a corresponding series of Victory Portfolios and, on July 29, 2016, made a final distribution to its shareholders based on net asset value. Expenses of \$6,471,304 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser.

Filing Date: The application was filed on June 6, 2017.

Applicant's Address: 4900 Tiedeman Road, 4th Floor, Brooklyn, Ohio 44144.

RS Variable Products Trust [File No. 811-21922]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Each series of applicant has transferred its assets to a corresponding series of Victory Variable Insurance Funds and, on July 29, 2016, made a final distribution to its shareholders based on net asset value. The RS S&P 500 Index VIP Series, a series of RS Variable Products Trust, is a named defendant in the multi-district class action lawsuit. Any potential liability for this action was assumed by the Victory S&P 500 Index VIP Series, a series of Victory Variable Insurance Funds. Expenses of \$1,517,960 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser.

Filing Date: The application was filed on June 6, 2017.

Applicant's Address: 4900 Tiedeman Road, 4th Floor, Brooklyn, Ohio 44144.

CPG Alternative Strategies Fund, LLC [File No. 811-22446]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On May 23, 2016, September 1, 2016, December 20, 2016, and May 15, 2017, applicant made liquidating distributions to its shareholders, based on net asset value. Expenses of \$11,000 incurred in connection with the liquidation were paid by the applicant's investment adviser.

Filing Date: The application was filed on June 9, 2017.

Applicant's Address: c/o Central Park Advisers, LLC, 805 Third Avenue, New York, New York 10022.

Winton Series Trust [File No. 811-23004]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On March 27, 2017, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses in connection with the liquidation were paid by the applicant's investment adviser.

Filing Dates: The application was filed on May 16, 2017, and amended on June 9, 2017.

Applicant's Address: One Freedom Valley Drive, Oaks, Pennsylvania 19456.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Brent J. Fields,

Secretary.

[FR Doc. 2017-14195 Filed 7-5-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81058; File No. SR-OCC-2017-803]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Advance Notice of and No Objection to The Options Clearing Corporation's Proposal To Enter Into a New Credit Facility Agreement

June 30, 2017.

Pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled the Payment, Clearing and Settlement Supervision Act of 2010 ("Clearing Supervision Act")¹ and Rule 19b-4(n)(1)(i) under the Securities Exchange Act of 1934 ("Act"),² notice is hereby given that, on May 4, 2017, the Options Clearing Corporation ("OCC") filed an advance notice (SR-OCC-2017-803) with the Securities and Exchange Commission ("Commission"). The advance notice is described in Items I and II below, which have been prepared by OCC. The Commission is publishing this notice to solicit comments on the advance notice from interested persons, and to provide notice that the Commission does not object to the changes set forth in the advance notice.

¹ 12 U.S.C. 5465(e)(1).

² 17 CFR 240.19b-4(n)(1)(i).

I. Clearing Agency's Statement of the Terms of Substance of the Advance Notice

This advance notice is being filed in connection with a proposed change in the form of the replacement of a revolving credit facility that OCC maintains for a 364-day term for the purpose of meeting obligations arising out of the default or suspension of a Clearing Member, in anticipation of a potential default by a Clearing Member, or the failure of a bank or securities or commodities clearing organization to perform its obligations due to its bankruptcy, insolvency, receivership or suspension of operations.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the advance notice and discussed any comments it received on the advance notice. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A) and (B) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement on Comments on the Advance Notice Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the advance notice and none have been received.

(B) Advance Notice Filed Pursuant to Section 806(e) of the Payment, Clearing, and Settlement Supervision Act

Description of Proposed Change

Background

This advance notice is being filed in connection with a proposed change in the form of the replacement of a revolving credit facility that OCC maintains for a 364-day term for the purpose of meeting obligations arising out of the default or suspension of a Clearing Member, in anticipation of a potential default by a Clearing Member, or the failure of a bank or securities or commodities clearing organization to perform its obligations due to its bankruptcy, insolvency, receivership or suspension of operations. In such circumstances, OCC has certain conditional authority under its By-Laws and Rules to borrow or otherwise obtain funds from third parties using Clearing

Member margin deposits and/or Clearing Fund contributions.³

OCC's existing credit facility ("Existing Facility") was implemented as of September 30, 2016, through the execution of a credit agreement among OCC, Bank of America, N.A. ("BoFA"), as administrative agent, and the lenders that are parties to the agreement from time to time. The Existing Facility provides short-term secured borrowings in an aggregate principal amount of \$2 billion but may be increased to \$3 billion if OCC so requests and sufficient commitments from lenders are received and accepted. To obtain a loan under the Existing Facility, OCC must pledge as collateral U.S. dollars or securities issued or guaranteed by the U.S. Government or the Government of Canada. Certain mandatory prepayments or deposits of additional collateral are required depending on changes in the collateral's market value. In connection with OCC's past implementation of the Existing Facility, OCC filed an advance notice with the Commission on August 29, 2016, and the Commission published a Notice of No-Objection on September 21, 2016.⁴

Proposed Changes

The Existing Facility is not set to expire until September 29, 2017; however, OCC is seeking an early termination of the Existing Facility and is currently negotiating the terms of a new credit facility ("New Facility") on substantially similar terms as the Existing Facility together with certain additional proposed modifications described herein. The proposed modifications would, among other things: (i) Change the renewal timing to an approximate June 30 annual cycle; (ii) expand the types of permitted collateral under the credit agreement to include S&P 500 Market Index equities, Exchange Traded Funds ("ETFs"), and American Depositary Receipts ("ADRs") and certain GSE debt securities; (iii) expand the definition of "Liquidity Needs"⁵ in the credit agreement to allow OCC to borrow from the New Facility to satisfy anticipated same-day settlement obligations as a result of circumstances where a bank or securities or commodities clearing

organization has failed to achieve daily settlement with OCC; and (iv) modify certain other terms and definitions in the agreement (including the replacement of the backup collateral agent).

The proposed terms and conditions that are expected to be applicable to the New Facility, subject to agreement by the lenders, are set forth in the Summary of Terms and Conditions, which is not a public document.⁶ OCC has separately submitted a request for confidential treatment to the Commission regarding the Summary of Terms and Conditions, which is included in this filing as Exhibit 3. The conditions regarding the availability of the New Facility, which OCC anticipates will be satisfied on or about July 5, 2017, include the execution and delivery of (i) a credit agreement between OCC and the administrative agent, collateral agent and various lenders under the New Facility, (ii) a pledge agreement between OCC and the administrative agent or collateral agent, and (iii) such other documents as may be required by the parties. The definitive documentation concerning the New Facility is expected to be consistent with the Summary of Terms and Conditions and substantially similar to the definitive documentation concerning the Existing Facility, although it may include certain changes to business terms as may be necessary to obtain the agreement of lenders with sufficient funding commitments and certain changes as may be necessary regarding administrative and operational terms being finalized between the parties.

The proposed changes to terms and conditions that are expected to be applicable to the New Facility are described in detail below.

Change in Renewal Timing

OCC is seeking an early termination of the Existing Facility, which is not set to expire until September 29, 2017, and proposes to change the renewal timing of the New Facility. OCC's purpose in early termination is to change to a different renewal cycle so that the credit facility will be renewed on or around June 30 every year. OCC believes that this renewal cycle is preferable because August and September, on account of traditional vacation times and the Labor Day holiday, have historically been a challenging period during which to schedule negotiations and for

participating banks to schedule credit committee meetings.

Expansion of Permitted Collateral

OCC also proposes to expand the types of permitted collateral under the New Facility. As proposed, OCC would be permitted to pledge a wider range of collateral under the New Facility that Clearing Members are permitted to use in making margin deposits and Clearing Fund contributions. As discussed above, to obtain a loan under the Existing Facility, OCC must pledge as collateral certain cash or securities that Clearing Members have contributed to the Clearing Fund or deposited as margin. The Summary of Terms and Conditions for the New Facility contemplates that it will expand the scope of such collateral that OCC may pledge to include other categories of securities that OCC accepts as margin deposits or that it may accept upon prior approval by the Risk Committee (*i.e.*, certain GSE debt securities).⁷

Specifically, the new collateral in respect of Clearing Member margin deposits that OCC would be permitted to pledge would include: (i) Common equities included in the S&P 500 Index, but not including securities of any type issued by or on behalf of any lender or lender's affiliate ("Pledged S&P Equities"); (ii) U.S. dollar exchange traded funds for equity, fixed income or commodity asset classes with a market capitalization of \$300 million or more, subject to certain additional restrictions with respect to volume and bid/asks, among other things, as agreed upon by OCC and the administrative agent ("Pledged ETFs"); (iii) U.S. dollar denominated shares of foreign based companies traded on a U.S. national exchange with a market price of \$5.00 or more per share or unit ("Pledged ADRs," and together with Pledge S&P Equities and Pledged ETFs, "Pledged Equities");⁸ (iv) U.S. Government Sponsored Enterprise mortgage backed securities, excluding collateralized mortgage obligations and real estate mortgage investment conduits, rated at least AA by two out of three of S&P, Moody's and Fitch ("Pledged GSE MBS"); and (v) non-callable debt securities issued by Freddie Mac within the reference debt program, securities issued by Fannie Mae within its

⁷ See *infra* note 9.

⁸ Limits would be applied so that Pledged S&P Equities and Pledged ADRs of a single issuer would not, at any time, exceed 5% of the cash or securities that OCC pledges, and total Pledged Equities would not, at any time, exceed 37.5% of the total cash or securities pledged. These limits, and the other limits that are part of the terms of the Existing Facility, would not apply to borrowings in an amount of \$50 million or less.

³ See generally Article VIII, Sections 5(a), (b) and (e) of OCC's By-Laws; Interpretation and Policy .06 to Article VIII, Section 5; OCC Rules 1102 and 1104(b).

⁴ See Securities Exchange Act Release No. 78893 (September 21, 2016), 81 FR 66318 (September 27, 2016) (SR-OCC-2016-803).

⁵ Under the Existing Facility, OCC's "Liquidity Needs" are defined as the use of loan proceeds to obtain funds projected to be required by OCC in anticipation of a potential default by a Clearing Member.

⁶ The Summary of Terms and Conditions for the New Facility clarifies certain terms regarding mandatory prepayments or deposits of additional collateral, which, as described above, are also features of the Existing Facility.

benchmark debt program, or non-callable short-term discount notes from either Freddie Mac or Fannie Mae ("Other Pledged GSE Securities," and together with Pledged GSE MBS, "Pledged GSE Securities").⁹ OCC would be able to pledge these securities to support the New Facility using pledge infrastructure that is already contemplated under the terms of the Existing Facility.

Adding these additional categories of permitted collateral to the New Facility serves the purpose of aligning the scope of permitted collateral for the New Facility with the scope of Clearing Member collateral that may become available to OCC for borrowing purposes. Specifically, in the event of a Clearing Member default, the cash and securities deposited as margin by the Clearing Member may be used by OCC for borrowing. Should OCC draw upon the New Facility in connection with such a default, OCC believes that it would be appropriate for it to have the increased flexibility to pledge a greater range of securities, which are permitted to be included in the defaulted Clearing Member's margin deposit.

The Summary of Terms and Conditions contemplates that the New Facility would also modify the ratings standards for securities that are issued or guaranteed by the Government of Canada. Such securities would be acceptable as permitted collateral provided that they have minimum ratings of AA (S&P) or Aa2 (Moody's)—rather than AAA or Aaa as under the Existing Facility.

The terms and conditions of the New Facility would also differ from the Existing Facility in connection with how the amount of funds available to OCC is calculated. As under the Existing Facility, the amount would be determined in part by applying haircuts to the market value of the different categories of collateral pledged by OCC. However, to accommodate the new categories of collateral it is expected that Pledged S&P Equities and Pledged ETFs would be valued at 70% of their market value, and Pledged ADRs will be valued at 50% of their market value. Depending on their tenor, Pledged GSE Securities would also be subject to

⁹ Article I, Section 1.G.(6) of OCC's By-Laws provides that the term "GSE debt securities" means "such debt securities issued by Congressionally chartered corporations as the Risk Committee may from time to time approve for deposit as margin." OCC currently does not accept Pledged GSE MBS for deposit as margin. As a result, the specific expansion of permitted collateral to include Pledged GSE MBS under the New Facility would not become available to OCC until such time, if at all, as OCC's Risk Committee approves such securities for deposit as margin.

haircuts on their market value as follows: (i) Under one year, 95%; (ii) one year or greater but less than five years, 94%; (iii) five years or greater but less than 10 years, 92%; and (iv) ten years or greater, 88%. For the purpose of determining the fund availability, and also for determining the amount of mandatory prepayments under the terms of the New Facility, the assets in OCC's Clearing Fund would continue to be valued at 90% of their market value, except under the New Facility, U.S. cash would be valued at 100%. These haircuts would represent commercial terms negotiated at arms-length by the parties.

Expansion of Use of Proceeds

Under the Existing Facility, OCC is permitted to finance Liquidity Needs in anticipation of a potential default by or suspension of a Clearing Member to the extent permitted under OCC's By-Laws and Rules. OCC has requested that the New Facility also provide it with flexibility to be able to borrow to address reasonably anticipated same-day settlement obligations under certain conditions, such as the failure of any bank or securities or commodities clearing organization to make daily settlement, to the extent such borrowing is permitted under the By-Laws and Rules.¹⁰ OCC believes that this expanded use of proceeds under the New Facility would enhance OCC's ability to effectively address and manage its liquidity risks as they related to its daily settlement obligations, specifically when any bank or securities or commodities clearing organization has failed to make daily settlement with OCC.

¹⁰ Article VIII, Section 5(e) of OCC's By-Laws authorizes OCC to take possession of Clearing Fund assets and to use such assets for purposes of securing a borrowing in circumstances concerning the default or suspension of a Clearing Member or where OCC has otherwise sustained a loss reimbursable out of the Clearing Fund (but OCC has elected to borrow to meet such obligations instead of immediately charging the Clearing Fund). OCC has requested that the definition of "Liquidity Needs" under the New Facility would include the ability to borrow to address reasonably anticipated same-day obligations as a result of the failure of any bank or securities or commodities clearing organization to achieve daily settlement, but would continue to be limited to the extent that such borrowing is permitted under the By-Laws and Rules. By limiting the ability to borrow for purposes of financing Liquidity Needs always to the extent permitted under the By-Laws and Rules, this borrowing authority in the agreement would not become operative until OCC receives all necessary regulatory approvals for any amendments to By-Laws and Rules necessary to effect such a borrowing, which would be the subject of a separate regulatory filing.

Other Proposed Changes

The New Facility may also limit the scope of those eligible to act as lenders in the New Facility to: (i) Banks within the meaning of Section 3(a)(6) of the Act;¹¹ (ii) any subsidiary of such a bank; (iii) any corporation organized under Section 25A of the Federal Reserve Act;¹² and (iv) any agency or branch of a foreign bank located within the United States.¹³ As discussed above, the Summary of Terms and Conditions contemplates that the New Facility would permit the pledge of certain equity securities as collateral. Lending secured by such securities is required to be conducted in compliance with Federal Reserve regulations regarding securities lending, including Regulation U,¹⁴ and this change would be designed to promote general consistency with such requirements.

Finally, under the New Facility, OCC also expects that a new backup collateral agent will be named.

Anticipated Effect on and Management of Risk

Completing timely settlement is a key aspect of OCC's role as a clearing agency performing central counterparty services. Overall, the New Facility would continue to promote the reduction of risks to OCC, its Clearing Members and the options market in general because it would allow OCC to obtain short-term funds to address liquidity demands arising out of the default or suspension of a Clearing Member, in anticipation of a potential default or suspension of Clearing Members or the insolvency of a bank or another securities or commodities clearing organization. The existence of the New Facility would therefore help OCC minimize losses in the event of such a default, suspension or insolvency, by allowing it to obtain funds on extremely short notice to ensure clearance and settlement of transactions in options and other contracts without interruption. OCC believes that the reduced settlement risk presented by OCC resulting from the New Facility would correspondingly reduce systemic risk and promote the safety and soundness of the clearing system. By drawing on the New Facility, OCC would also be able to avoid liquidating margin deposits or Clearing Fund contributions in what would

¹¹ 15 U.S.C. 78c(a)(6).

¹² 12 U.S.C. 611.

¹³ This explicitly does not include any savings and loan association, any credit union, any lending institution that is an instrumentality of the United States, or any member of a national securities exchange.

¹⁴ 12 CFR 221.6.

likely be volatile market conditions, which would preserve funds available to cover any losses resulting from the failure of a Clearing Member, bank or other clearing organization. Expanding the scope of collateral that OCC is permitted to pledge to the New Facility to include the Pledged Equities and Pledged GSE Securities that OCC permits its Clearing Members to deposit as margin would further this purpose by giving OCC greater flexibility to pledge a broader range of collateral to the New Facility that it determines is appropriate under the circumstances. Expanding the uses of proceeds under the New Facility to support Liquidity Needs in respect of OCC's settlement obligations would also further this purpose to the extent such borrowing is authorized under OCC's By-Laws and Rules. OCC believes that the change would not otherwise affect or alter the management of risk at OCC because the New Facility generally preserves the same terms and conditions as the Existing Facility.

Consistency With the Payment, Clearing and Settlement Supervision Act

The stated purpose of the Clearing Supervision Act is to mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically important financial market utilities and strengthening the liquidity of systemically important financial market utilities.¹⁵ Section 805(a)(2) of the Clearing Supervision Act¹⁶ also authorizes the Commission to prescribe risk management standards for the payment, clearing and settlement activities of designated clearing entities, like OCC, for which the Commission is the supervisory agency. Section 805(b) of the Clearing Supervision Act¹⁷ states that the objectives and principles for risk management standards prescribed under Section 805(a) shall be to:

- Promote robust risk management;
- promote safety and soundness;
- reduce systemic risks; and
- support the stability of the broader financial system.

The Commission has adopted risk management standards under Section 805(a)(2) of the Clearing Supervision Act and the Act in furtherance of these objectives and principles.¹⁸ In

particular, Rule 17Ad-22(e)(7)¹⁹ requires that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively measure, monitor, and manage the liquidity risk that arises in or is borne by it, including measuring, monitoring and managing its settlement and funding flows on an ongoing and timely basis and its use of intraday liquidity.

OCC believes that the New Facility is consistent with Section 805(b)(1) of the Clearing Supervision Act²⁰ and Rule 17Ad-22(e)(7)²¹ because it promotes robust risk management by OCC of its liquidity risks to ensure that OCC can continue meeting its settlement obligations. The New Facility would provide OCC with timely access to a stable and reliable liquidity funding source to help it complete timely clearing and settlement. Expanding the purposes for which borrowing proceeds may be used and the scope of permitted collateral under the New Facility would further the timeliness and reliability of OCC's access to liquidity funding, by providing greater flexibility regarding (i) the use of proceeds under the New Facility to address and manage settlement obligations and (ii) the collateral that OCC may determine is appropriate to pledge to support borrowing in the event of a Clearing Member default. The expansion of permitted collateral would better enable OCC to manage liquidity risk associated with its settlement obligations by having access to a broader range of collateral to pledge to the New Facility in the form margin collateral that a defaulting Clearing Member may have on deposit. Expanding the uses of proceeds under the New Facility to support Liquidity Needs in respect of OCC's settlement obligations would also promote management of settlement and funding flows (to the extent such borrowing is authorized under OCC's By-Laws and Rules). In these ways, the proposed changes are consistent with Section 805(b)(1) of the Clearing Supervision Act²² and Rule 17Ad-22(e)(7).²³

Standards for Covered Clearing Agencies became effective on December 12, 2016. OCC is a "covered clearing agency" as defined in Rule 17Ad-22(a)(5) and therefore OCC must comply with new section (e) of Rule 17Ad-22 as of April 11, 2017.

¹⁵ 12 U.S.C. 5461(b).

¹⁶ 12 U.S.C. 5464(a)(2).

¹⁷ 12 U.S.C. 5464(b).

¹⁸ 17 CFR 240.17Ad-22. See Securities Exchange Act Release Nos. 68080 (October 22, 2012), 77 FR 66220 (November 2, 2012) (S7-08-11) ("Clearing Agency Standards"); 78961 (September 28, 2016), 81 FR 70786 (October 13, 2016) (S7-03-14) ("Standards for Covered Clearing Agencies"). The

¹⁹ 17 CFR 240.17Ad-22(e)(7).

²⁰ 12 U.S.C. 5464(b)(1).

²¹ 17 CFR 240.17Ad-22(e)(7).

²² 12 U.S.C. 5464(b)(1).

²³ 17 CFR 240.17Ad-22(e)(7).

Accelerated Commission Action Requested

Pursuant to Section 806(e)(1)(I) of the Clearing Supervision Act,²⁴ OCC requests that the Commission notify OCC that it has no objection to the New Facility not later than Friday, June 30, 2017, which shall be fifty-seven calendar days from the date of OCC's submission of this proposed change and two business days prior to the expected July 5, 2017 availability of the New Facility. OCC requests Commission action by this date to ensure that the New Facility is able to become effective and will launch according to the new renewal cycle. For the reasons described above, OCC believes that the new renewal cycle will help it manage certain commercial structuring and administrative coordination risks associated with the renewal process.

III. Date of Effectiveness of the Advance Notice and Timing for Commission Action

The proposed change may be implemented if the Commission does not object to the proposed change within 60 days of the later of: (i) The date the proposed change was filed with the Commission; or (ii) the date any additional information requested by the Commission is received. OCC shall not implement the proposed change if the Commission has any objection to the proposed change.

The Commission may extend the period for review by an additional 60 days if the proposed change raises novel or complex issues, subject to the Commission providing the clearing agency with prompt written notice of the extension. A proposed change may be implemented in less than 60 days from the date the advance notice is filed, or the date further information requested by the Commission is received, if the Commission notifies the clearing agency in writing that it does not object to the proposed change and authorizes the clearing agency to implement the proposed change on an earlier date, subject to any conditions imposed by the Commission.

OCC shall post notice on its Web site of proposed changes that are implemented.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Comments may be submitted by any of the following methods:

²⁴ 12 U.S.C. 5465(e)(1)(I).

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-OCC-2017-803 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR-OCC-2017-803. 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 advance notice that are filed with the Commission, and all written communications relating to the advance notice 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 OCC and on OCC's Web site at http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_17_803.pdf.

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-OCC-2017-803 and should be submitted on or before July 27, 2017.

V. Commission Findings and Notice of No Objection

Although the Clearing Supervision Act does not specify a standard of review for an advance notice, its stated purpose is instructive: to mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically important financial market utilities and strengthening the liquidity of systemically important financial

market utilities.²⁵ Section 805(a)(2) of the Clearing Supervision Act authorizes the Commission to prescribe risk management standards for the payment, clearing, and settlement activities of designated clearing entities and financial institutions engaged in designated activities for which it is the supervisory agency or the appropriate financial regulator.²⁶ Section 805(b) of the Clearing Supervision Act²⁷ states that the objectives and principles for the risk management standards prescribed under Section 805(a) shall be to:

- Promote robust risk management;
- promote safety and soundness;
- reduce systemic risks; and
- support the stability of the broader financial system.²⁸

The Commission has adopted risk management standards under Section 805(a)(2) of the Clearing Supervision Act²⁹ and Section 17A of the Exchange Act ("Rule 17Ad-22").³⁰ Rule 17Ad-22 requires registered clearing agencies to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for their operations and risk management practices on an ongoing basis.³¹ Therefore, it is appropriate for the Commission to review changes proposed in advance notices against Rule 17Ad-22 and the objectives and principles of the risk management standards described in Section 805(b) of the Clearing Supervision Act.³² The Commission believes that the proposal in the Advance Notice is consistent with the objectives and principles described in Section 805(b) of the Clearing Supervision Act,³³ and in Rule 17Ad-22 under the Exchange Act, particularly Rule 17Ad-22(e)(7).³⁴

A. Consistency With Section 805(b) of the Clearing Supervision Act

As discussed below, the Commission believes that the changes proposed in the Advance Notice are consistent with Section 805(b) of the Clearing Supervision Act because they: (i) Promote robust risk management; (ii) are consistent with promoting safety and soundness; and (iii) are consistent with reducing systemic risks and promoting the stability of the broader financial system.

²⁵ 12 U.S.C. 5461(b).

²⁶ 12 U.S.C. 5464(a)(2).

²⁷ 12 U.S.C. 5464(b).

²⁸ *Id.*

²⁹ 12 U.S.C. 5464(a)(2).

³⁰ See 17 CFR 240.17Ad-22.

³¹ *Id.*

³² 12 U.S.C. 5464(b).

³³ *Id.*

³⁴ See 17 CFR 240.17Ad-22(e)(7).

The Commission believes that the changes proposed in the Advance Notice are consistent with promoting robust risk management, in particular management of liquidity risk. In particular, the terms of the proposed New Facility give OCC expanded flexibility to manage liquidity stresses arising from a Clearing Member default by broadening the range of collateral that OCC can pledge to the facility. The expanded range of collateral that may be pledged therefore affords OCC a new option of pledging margin assets other than cash, U.S. Government Securities, and Canadian Government Securities as an alternative to its existing choices of either liquidating other margin collateral or pledging primarily Clearing Fund collateral in order to access the Existing Facility.³⁵ The broader collateral eligibility reflected in the proposed New Facility also would bring OCC's liquidity risk management resources in line with those of other CCPs that already have the ability to pledge equities to their revolving credit facility liquidity lines.³⁶ In addition, broadening the definition of "Liquidity Needs" in the New Facility to address losses that may arise when a bank or securities or commodities clearing organization has failed to make daily settlement with OCC (as opposed to the narrower instance under the Existing Facility of losses from a bankruptcy or insolvency of a bank or securities or commodities clearing organization)—subject to necessary amendments of OCC's By-Laws and Rules and concomitant regulatory approvals³⁷—would further enhance OCC's ability to continue to meet its settlement obligations. As such, the Commission believes that the proposal would promote robust risk management

³⁵ The Commission notes that OCC does not currently accept Pledged GSE MBS for deposit as margin, and that OCC has represented that it will not do so unless and until OCC's Risk Committee approves such securities for deposit as margin, in accordance with OCC's By-laws. See *supra* note 9.

³⁶ The Commission notes that the National Securities Clearing Corporation has the right to post equity securities as part of its revolving credit facility. See Securities Exchange Act Release No. 69557 (May 10, 2013), 78 FR 28936, 28936 & n.5 (May 16, 2013) (SR-NSCC-2013-803); see also NSCC Rules and Procedures, Rule 4 (http://dtcc.com/legal/rules_proc/nsccl_rules.pdf).

³⁷ The Commission notes that OCC has represented that the expanded borrowing authority in this agreement would not become operative unless and until OCC receives all necessary regulatory approvals for any amendments to its By-Laws and Rules necessary to effect such a borrowing, which would be subject to a separate regulatory filing with the Commission. See *supra* note 10. For the purposes of the findings herein, the Commission relies on this representation and expects that OCC will make a separate regulatory filing in connection with effecting consistent changes of this sort to its By-Laws and Rules.

practices at OCC, consistent with Section 805(b) of the Clearing Supervision Act.³⁸

The Commission also believes that the changes proposed in the Advance Notice are consistent with promoting safety and soundness. The New Facility would continue to provide OCC with a liquidity resource in the event of a participant default or of losses due to the bankruptcy or insolvency of a bank or securities or commodities clearing organization. Subject to amendment of OCC's By-Laws and Rules and related regulatory approvals, the New Facility also would provide liquidity to OCC in the event of a failure by a bank or securities or commodities clearing organization to perform same-day settlement obligations outside the context of such bank or clearing organization's bankruptcy or insolvency. This expanded set of circumstances in which OCC could access liquidity would promote safety and soundness for OCC and its Clearing Members because it would provide OCC with a readily available liquidity resource that would enable it to continue to meet its settlement obligations in a timely fashion, thereby helping OCC to contain losses and liquidity pressures that otherwise might cause financial distress to OCC or its Clearing Members. As such, the Commission believes the proposed change is consistent with promoting safety and soundness, as contemplated in Section 805(b) of the Clearing Supervision Act.

Finally, the Commission believes that the Advance Notice is consistent with reducing systemic risks and promoting the stability of the broader financial system. The New Facility would provide OCC, which has been designated a systemically important financial market utility, with a more flexible and thus improved, liquidity resource. The Commission believes that the New Facility should bolster the likelihood that OCC will meet its settlement obligations, thereby reducing the risk of loss contagion and enhancing the ability of OCC and its Clearing Members to provide reliability, stability, and safety to the financial markets that they serve. Accordingly, the Commission believes that the proposal could help to reduce systemic risk and support the stability of the broader financial system, consistent with Section 805(b) of the Clearing Supervision Act.

B. Consistency With Rule 17Ad-22(e)(7)

The Commission believes that the proposed changes associated with the New Facility are consistent with the requirements of Rule 17Ad-22(e)(7) under the Exchange Act.³⁹ This rule requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to “effectively measure, monitor, and manage the liquidity risk that arises in or is borne by [it], including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity.”⁴⁰

In particular, Rule 17Ad-22(e)(7)(i) directs that a covered clearing agency meet this obligation by, among other things, “[m]aintaining sufficient liquid resources at the minimum in all relevant currencies to effect same-day . . . settlement of payment obligations with a high degree of confidence under a wide range of foreseeable stress scenarios that includes, but is not limited to, the default of the participant family that would generate the largest aggregate payment obligation for the covered clearing agency in extreme but plausible conditions.”⁴¹

The Commission believes that the proposal is consistent with Exchange Act Rule 17Ad-22(e)(7)(i). The proposed New Facility would permit OCC to pledge a broader range of collateral to the facility, and therefore would allow OCC to utilize a greater range of margin collateral to obtain liquidity from the facility, as an alternative to selling such collateral under what may be stressed and volatile market conditions and as an alternative to pledging collateral deposited to the Clearing Fund. The proposal thus increases OCC's flexibility to respond to a clearing member default by providing OCC with greater opportunity, depending on prevailing market conditions, to select among different types of collateral assets and make efficient use of margin collateral and to preserve Clearing Fund assets in managing a Clearing Member default. The New Facility also would permit OCC to cover any losses resulting from the failure of a bank or other clearing organization to achieve same-day settlement, subject to further internal governance and concomitant regulatory approvals that OCC must obtain.⁴² This

³⁹ 17 CFR 240.17Ad-22(e)(7).

⁴⁰ *Id.*

⁴¹ 17 CFR 240.17Ad-22(e)(7)(i).

⁴² As stated above, OCC's ability to utilize borrowings for these purposes would be subject to

would provide OCC with additional liquidity to manage scenarios outside of a Clearing Member default, thereby mitigating the likelihood of liquidity stress to OCC. The additional features of the New Facility described above would support OCC's ability to meet liquidity needs and to effect same-day, intraday, and multiday settlement payment obligations under a wider range of stress scenarios than under the Existing Facility. Therefore, the Commission believes that the proposal is consistent with Rule 17Ad-22(e)(7)(i).⁴³

Finally, Rule 17Ad-22(e)(7)(ii) under the Exchange Act requires that OCC establish, implement, maintain, and enforce written policies and procedures reasonably designed to hold qualifying liquid resources sufficient to satisfy payment obligations owed to clearing members.⁴⁴ Rule 17Ad-22(a)(14) of the Exchange Act defines “qualifying liquid resources” to include, among other things, lines of credit without material adverse change provisions, that are readily available and convertible into cash.⁴⁵ Based upon review of the relevant provisions of the Summary of Terms and Conditions, the Commission believes that the New Facility would not be subject to any material adverse change provision, and is thus consistent with Rule 17Ad-22(a)(14).⁴⁶ Further, and as described above, the New Facility is designed to help ensure that OCC has sufficient, readily-available qualifying liquid resources to meet the cash settlement obligations of OCC's largest family of affiliated Clearing Members. Therefore, the Commission believes that the proposal is consistent with Rule 17Ad-22(e)(7)(ii).⁴⁷

VI. Conclusion

It is therefore noticed, pursuant to Section 806(e)(1)(I) of the Clearing Supervision Act, that the Commission *does not object* to the Advance Notice SR-OCC-2017-803 and OCC can and hereby is *authorized* to implement the change as of the date of this notice.

By the Commission.

Brent J. Fields,
Secretary.

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a further OCC regulatory filing to make the changes to its By-Laws and Rules. *See* note 10, *supra*.

⁴³ *Id.*

⁴⁴ 17 CFR 240.17Ad-22(e)(7)(ii).

⁴⁵ 17 CFR 240.17Ad-22(a)(14).

⁴⁶ *Id.*

⁴⁷ 17 CFR 240.17Ad-22(e)(7)(ii).

³⁸ 12 U.S.C. 5464(b).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81052; File No. SR–IEX–2017–11]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Modify the Manner in Which the Exchange Opens Trading for Non-IEX-Listed Securities

June 29, 2017.

On April 13, 2017, the Investors Exchange LLC (“IEX” or the “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 modify the manner in which the Exchange opens trading for non-IEX-listed securities beginning at the start of Regular Market Hours and make related changes. The proposed rule change was published for comment in the **Federal Register** on April 28, 2017.³ On May 19, 2017, IEX filed Amendment No. 1 to the proposal. On June 9, 2017, IEX consented to an extension of time for the Commission to act on the proposal until July 5, 2017.⁴ On June 22, 2017, IEX filed Amendment No. 2 to the proposal, which superseded and replaced Amendment No. 1 in its entirety. On June 29, 2017, IEX filed Amendment No. 3 to the proposal, which superseded and replaced Amendment No. 2 in its entirety.⁵ The Commission received no comments on the proposed rule change.

Section 19(b)(2) of the Act ⁶ provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the

self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change was June 12, 2017. IEX consented to an extension of time for the Commission to act on the proposal until July 5, 2017.⁷ The Commission is further extending the time period for Commission action on the proposed rule change.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change, as modified by Amendment No. 3. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,⁸ designates July 27, 2017, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–IEX–2017–11), as modified by Amendment No. 3.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Jill M. Peterson,*Assistant Secretary.*

[FR Doc. 2017–14143 Filed 7–5–17; 8:45 am]

BILLING CODE 8011–01–P**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34–80930A; File No. 4–698]

Joint Industry Plan; Notice of Filing and Immediate Effectiveness of Amendment No. 2 to the National Market System Plan Governing the Consolidated Audit Trail by Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors’ Exchange LLC, Miami International Securities Exchange, LLC, MIAAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE Arca, Inc., NYSE MKT LLC and NYSE National, Inc.; Correction

June 30, 2017.

AGENCY: Securities and Exchange Commission.**ACTION:** Notice; correction.

SUMMARY: The Securities and Exchange Commission published a document in the **Federal Register** on June 20, 2017, concerning a Notice of Filing and Immediate Effectiveness of Amendment No. 2 to the National Market System Plan Governing the Consolidated Audit Trail. The document contained two typographical errors.

FOR FURTHER INFORMATION CONTACT: Jennifer L. Colihan, Special Counsel, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, (202) 551–5642.

Correction

In the **Federal Register** of June 20, 2017, in FR Doc 2017–12771, on page 28180, in the first line under the heading “*Introduction*” in the second column, correct the date “May 9, 2017” instead to “May 23, 2017.”

On page 28180, in footnote 4 in the third column, correct the date “May 8, 2017” instead to “May 22, 2017.” Add the following sentence after the first sentence of footnote 4, “The Participants initially submitted the amendment on May 9, 2017, but subsequently withdrew the amendment

¹ 15 U.S.C. 78s(b)(1).² 17 CFR 240.19b–4.³ See Securities Exchange Act Release No. 80514 (April 24, 2017), 82 FR 19763.⁴ See letter from Claudia Crowley, Chief Regulatory Officer, IEX, to Richard Holley, Assistant Director, Division of Trading and Markets, Commission, dated June 9, 2017.⁵ Amendment No. 3 revised the proposal to (i) provide additional clarity regarding the process for determining the Opening Match Price; (ii) modify the definition of “Cross Tie Breaker” to account for a scenario involving securities in Test Groups Two and Three of the Plan to Implement a Tick Size Pilot Program; and (iii) correct certain typographical errors. Amendment No. 3 also revised the proposal to fix an error in the proposed rule text in Amendment No. 2 and correct additional typographical errors.⁶ 15 U.S.C. 78s(b)(2).⁷ See *supra* note 4.⁸ 15 U.S.C. 78s(b)(2).⁹ 17 CFR 200.30–3(a)(31).

and refiled the submission on May 23, 2017.”

Brent J. Fields,
Secretary.

[FR Doc. 2017-14199 Filed 7-5-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81051; File No. SR-FICC-2017-012]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving a Proposed Rule Change to the Mortgage-Backed Securities Division Clearing Rules Regarding Fixed Income Clearing Corporation's (1) Time of Novation, (2) Treatment of Itself as the Settlement Counterparty for Certain Transaction Types, and (3) Proposal to Implement New Processes to Promote Operational Efficiencies for Its Clearing Members

June 29, 2017.

I. Introduction

On May 15, 2017, Fixed Income Clearing Corporation (“FICC”) filed with the Securities and Exchange Commission (“Commission”) proposed rule change SR-FICC-2017-012, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder² (hereinafter, “Proposed Rule Change”). The Proposed Rule Change was published for comment in the **Federal Register** on May 24, 2017.³ The Commission received no comments to the Proposed Rule Change. This order approves the Proposed Rule Change.

II. Description of the Proposed Rule Change

The Proposed Rule Change consists of modifications to FICC's Mortgage-Backed Securities Division (“MBS”) Clearing Rules (“MBS Rules”).⁴ Specifically, the Proposed Rule Change

would (1) change the time that FICC treats itself as the settlement counterparty for SBO-Destined Trades⁵ to the time of trade comparison, which is earlier in the lifecycle of the trade than the current practice; (2) change the time that FICC novates⁶ and treats itself as the settlement counterparty for Trade-for-Trade Transactions⁷ to the time of trade comparison, which is earlier in the lifecycle of the trade than the current practice; (3) regarding Specified Pool Trades,⁸ novate and establish FICC as the settlement counterparty at the time of trade comparison; and (4) regarding Stipulated Trades⁹ (a new proposed trade type), guarantee, novate, and establish FICC as the settlement counterparty at the time of trade comparison.

The Proposed Rule Change also includes several changes to the MBS Rules regarding the operational processes for clearing MBS trades. These changes include (1) eliminating the Notification of Settlement process regarding trades that currently settle bilaterally, as the process would become obsolete once FICC novates and directly

settles all SBO-Destined Transactions, Trade-for-Trade Transactions, and Specified Pool Trades, as proposed; (2) establishing the “Do Not Allocate” (“DNA”) process, which would allow Clearing Members¹⁰ to offset SBON Trades¹¹ and Trade-for-Trade Transactions; (3) establishing the “Expanded Pool Netting” process, which would net Pool Instructs¹² stemming from SBON Trades and Trade-for-Trade Transactions to arrive at a single net position per counterparty in a particular Pool Number¹³ for next-day delivery; (4) eliminating the “give-up” process for Brokered Transactions,¹⁴ as the process would become obsolete once FICC novates and settles all such transactions, as proposed; and (5) amending the components of the Cash Settlement¹⁵ calculation to reflect the changes above.

Finally, the Proposed Rule Change would modify FICC's Real-Time Trade Matching (“RTTM”) system to remove size restrictions on SBO-Destined Trades. Since trade size submission

¹⁰The term “Clearing Member” means any entity admitted into MBS membership pursuant to MBS Rule 2A. MBS Rule 1, *supra* note 4.

¹¹The proposed MBS Rules would use the term “SBON Trades” to signify obligations that result from the TBA Netting process. Such obligations would reflect FICC as the settlement counterparty.

¹²The term “Pool Instruct” is defined in FICC's MBS Pool Netting User Guide to mean “[a]n input used by a [M]ember to submit pool details directly into [FICC's Real-Time Trade Matching System] pool netting for bilateral matching and assignment to a corresponding open TBA position as a prerequisite to pool netting. FICC MBS Pool Netting User Guide, available at <http://www.dtcc.com/clearing-services/ficc-mbsd/ficc-mbsd-user-documentation>.

¹³The term “Pool Number” is defined in FICC's MBS Pool Netting User Guide to mean a “[u]nique number assigned by the industry to identify the pool (in addition to the pool CUSIP [(i.e., the Committee on Uniform Securities Identification Procedures identifying number for a security)], since the pool CUSIP is not always known at the time of issuance).” FICC MBS Pool Netting User Guide, *supra* note 12.

¹⁴The term “Brokered Transaction” means any “give-up” transaction calling for the delivery of a security for which data has been submitted to FICC by Members, in transactions to which a Broker is a party. MBS Rule 1, *supra* note 4. FICC operates its brokered business on a “give-up” basis, which means that MBS discloses (i.e., “gives-up”) the identity of each Dealer (i.e., a Member that is in the business of buying and selling Securities as principal, either directly or through a Broker.) to a Brokered Transaction after a period of time. MBS Rule 1; Rule 5 Section 7, *supra* note 4.

¹⁵The term “Cash Settlement” refers to the payment each business day by FICC to a Member or by a Member to FICC pursuant to Rule 11. MBS Rule 1, *supra* note 4. Cash Settlement is a daily process of generating a single net credit or debit cash amount at the “Aggregated Account” level (i.e., either a single account linked to an aggregate ID or a set of accounts linked to an aggregate ID for the processing of transactions.) Clearing Members' Cash Settlement obligations are calculated on a net basis at the aggregate ID level. MBS Rule 1, *supra* note 4.

⁵The Proposed Rule Change would add the new defined term “SBO” to define the settlement balance orders that constitute the net positions of a Clearing Member as a result of the TBA Netting process. Notice, 82 FR at 23860. The term “SBO-Destined Trade” means a “To-Be-Announced” (“TBA”) transaction intended for TBA Netting. MBS Rule 1, *supra* note 4. TBA transactions are trades for which the actual identities of and/or the number of pools underlying each trade are unknown at the time of trade execution. *See Notice*, 82 FR at 23854. “TBA Netting” means the netting service that FICC provides to Clearing Members in connection with TBA transactions. MBS Rule 1, *supra* note 4. The MBS settlement balance order (“SBO”) system nets trades within the same mortgage backed security (“MBS”) product, coupon rate, maturity, and settlement date. The SBO system provides netting efficiencies, eliminating the need for Clearing Members to settle all but the resulting net buy and sell obligations.

⁶Novation terminates the obligations between Clearing Members to deliver, receive, and make payments to each other, and replaces those obligations with identical obligations between the Clearing Members and FICC. MBS Rule 5 Section 13, *supra* note 4.

⁷The term “Trade-for-Trade Transaction” means a TBA transaction submitted to FICC that is not intended for TBA Netting. MBS Rule 1, *supra* note 4. Entities use Trade-for-Trade Transactions either by choice or for trades that are not eligible for netting.

⁸The term “Specified Pool Trade” means a trade in which all required pool data, including the pool number to be delivered upon settlement are agreed by the counterparties at the time of trade execution. MBS Rule 1, *supra* note 4.

⁹A “Stipulated Trade” is a trade in which pools allocated and delivered against the trade must satisfy certain conditions that are agreed upon by the parties at the time of trade execution. *See Notice*, 82 FR at 23856. Trades carrying stipulations may reflect terms that include, but are not limited to issuance year, issuance month, weighted average coupon, weighted average maturity and/or weighted average loan age, etc.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 80716 (May 18, 2017), 82 FR 23852 (May 24, 2017) (SR-FICC-2017-012) (“Notice”).

⁴ FICC is comprised of two divisions, MBS and the Government Securities Division (“GSD”). MBS provides, among other things, clearance and settlement for trades in mortgage-backed securities. GSD provides, among other things, clearance and settlement for trades in U.S. government debt issues. MBS and GSD maintain separate sets of rules, margin models, and clearing funds. The Proposed Rule Change relates solely to the MBS Rules. Capitalized terms used and not otherwise defined shall have the meaning assigned to such terms in the MBS Rules or the FICC MBS EPN Rules, as applicable, available at <http://www.dtcc.com/en/legal/rules-and-procedures>.

requirements are not reflected in the MBSB Rules, this change would not require changes to the MBSB Rules.

A. MBSB's Current Trade Comparison and Netting Processes

MBSB currently processes four types of trades: (1) SBO-Destined Trades; (2) Trade-for-Trade Transactions; (3) Specified Pool Trades; and (4) Option Contracts. SBO-Destined Trades and Trade-for-Trade Transactions are TBA transactions, which are trades for which the actual identities of and/or the number of pools underlying each trade are unknown at the time of trade execution. Specified Pool Trades are trades for which all pool data is agreed upon by the Clearing Members at the time of trade execution. Option Contracts are not addressed by the Proposed Rule Change.

The first step of MBSB's clearance and settlement process is trade comparison, which consists of the reporting, validating, and matching by FICC of both sides of a transaction to ensure that the details of the trades are in agreement between the parties.¹⁶ Clearing Members enter trade data into the RTTM system, and once the trade is deemed compared, FICC guarantees settlement of the trade, provided that the trade meets the requirements of the MBSB Rules and was entered into in good faith.¹⁷

FICC novates SBO-Destined Trades upon trade comparison.¹⁸ In contrast, FICC does not novate Trade-for-Trade Transactions at the time of trade comparison. However, FICC guarantees the settlement of Trade-for-Trade Transactions upon trade comparison.¹⁹ FICC treats Stipulated Trades as Trade-for-Trade Transactions because Clearing Members currently do not notify FICC of the stipulations. Similarly, Specified Pool Trades are not novated upon trade comparison. However, FICC guarantees the obligations of Specified Pool Trade counterparties to deliver, receive, and make payment for securities that satisfy the same generic criteria as the securities underlying Specified Pool Trades upon trade comparison.²⁰

MBSB employs two netting processes to reduce settlement obligations as well as the number of securities and the amount of cash to be exchanged at settlement: The TBA Netting system; and the Pool Netting system.²¹ The TBA Netting system is used to net eligible

SBO-Destined Trades.²² Three business days prior to the established settlement date of the TBA settlement obligations (referred to as "72-Hour Day"),²³ TBA Netting for the applicable class occurs. On 72-Hour Day, all compared SBO-Destined Trades within the class that have been designated for the TBA Netting process are netted within and across counterparties. Even though FICC has become the legal counterparty for each SBO-Destined Trade upon trade comparison, TBA Netting occurs as though each SBO-Destined Trade is with the Original Contra-Side Member.²⁴ The net positions created by the TBA Netting process are referred to as the settlement balance order positions ("SBO positions"), which constitute settlement obligations against which Clearing Members will submit Pool Instructs for the Pool Netting process.²⁵

Two business days prior to the established settlement date of the TBA settlement obligations (referred to as "48-Hour Day"), Clearing Members that have an obligation to deliver pools ("Pool Sellers") must notify their counterparties ("Pool Buyers") through MBSB's Electronic Pool Notification Service ("EPN Service")²⁶ of the relevant Pool Instructs (*i.e.*, pools that such Pool Sellers intend to allocate in satisfaction of their SBO positions and/or Trade-for-Trade Transactions).²⁷ For Trade-for-Trade Transactions, the

²² Although Trade-for-Trade Transactions are not netted through the TBA Netting system, they constitute TBA settlement obligations against which Pool Instructs may be submitted. Specified Pool Trades are also not netted through the TBA Netting system, nor do such trades enter the Pool Netting system. MBSB Rules 6 and 8, *supra* note 4.

²³ MBSB performs the TBA Netting process four times per month, corresponding to each of the four primary settlement classes and dates established by the Securities Industry Financial Markets Association ("SIFMA"). SIFMA publishes a calendar that specifies one settlement date per month for four different product classes (known as Classes A, B, C and D) that are used to categorize the various types of TBA securities. These product classes and the associated settlement dates are recognized by the industry, and they provide the foundation for MBSB's TBA Netting process.

²⁴ The term "Original Contra-Side Member" means a Member with whom a Member has entered into a contract for the purchase or sale of a security. MBSB Rule 1, *supra* note 4.

²⁵ MBSB Rule 6, *supra* note 4.

²⁶ MBSB's electronic pool notification service (the "EPN Service") provides Clearing Members with the ability to electronically communicate pool information to MBSB, as described in the proposed rule changes. MBSB Rule 1, *supra* note 4.

²⁷ Pool allocations occur for all TBA Obligations, whether established on 72-Hour Day through the TBA Netting process or established upon comparison when the Trade-for-Trade Transaction was submitted. Pool allocations are not performed for Specified Pool Trades because the pool that is to be delivered in connection with such trade is specified upon submission.

relevant counterparty is the Original Contra-Side Member. For SBO-Destined Trades, although FICC is the legal counterparty, Clearing Members are directed to treat a designated SBO Contra-Side Member²⁸ as their counterparty.²⁹ Clearing Members are required to submit Pool Instructs on 48-Hour Day to MBSB through its RTTM system for Pool Comparison³⁰ (which is a prerequisite to Pool Netting).³¹ Trade counterparties must bilaterally match their respective pools. At this stage, the Pool Netting System processes the compared pool allocations (provided that neither Clearing Member has cancelled the submitted allocation).³²

Pool netting takes place one business day prior to the established settlement date of the TBA settlement obligations (referred to as "24-Hour Day"). The Pool Netting system reduces the number of pool settlements by netting Pool Instructs stemming from SBO Trades and Trade-for-Trade Transactions to arrive at a single net position per counterparty in a particular pool number for next-day delivery.

On each business day, MBSB makes available to each Clearing Member a report with information to enable such Clearing Member to settle its Pool Net Settlement Positions³³ on that business day. At that time, all deliver, receive and related payment obligations between Clearing Members resulting

²⁸ The term "SBO Contra-Side Member" means the Member with whom a Member is directed by the Corporation to settle an SBO Trade. The term "SBO Trade" means a settlement balance order that offsets an SBO Net Open Position pursuant to the MBSB Rules. A Member which has one or more "Long SBO Trades" in a particular CUSIP number is a net purchaser with respect to that CUSIP number, as the case may be; a Member which has one or more "Short SBO Trades" is a net seller. MBSB Rule 1, *supra* note 4. An "SBON Contra-Side Member" is an SBO Contra-Side Member that is not an Original Contra-Side Member with respect to such SBO Trade. An "SBOO Contra-Side Member" is an SBO Contra-Side Member that is also an Original Contra-Side Member with respect to such SBO Trade. MBSB Rule, *supra* note 4.

²⁹ A Clearing Member's "counterparty" for purposes of notifications, netting, and processing is the SBO Contra-Side Member or the Original Contra-Side Member for SBO-Destined Trades and Trade-for-Trade Transactions, respectively. MBSB Rule 6, *supra* note 4.

³⁰ The term "Pool Comparison" means the service provided to Clearing Members, as applicable, and the operations carried out by FICC in the course of providing such service, in accordance with Rule 7. MBSB Rule 1, *supra* note 4.

³¹ As with the EPN Service allocation process described above, Clearing Members submit Pool Instructs against all of their TBA Obligations, regardless of whether the TBA Obligation is established upon trade comparison or stems from the TBA Netting process.

³² MBSB Rule 8, *supra* note 4.

³³ The term "Pool Net Settlement Position" means either a Pool Net Short Position or a Pool Net Long Position, as the context requires. MBSB Rule 1, *supra* note 4.

¹⁶ MBSB Rule 5, *supra* note 4.

¹⁷ MBSB Rule 5 Section 8, *supra* note 4.

¹⁸ MBSB Rule 5 Section 13, *supra* note 4.

¹⁹ *Id.*

²⁰ MBSB Rule 5 Section 12, *supra* note 4.

²¹ MBSB Rules 6, 7 and 8, *supra* note 4.

from compared pools that comprise a Pool Net Settlement Position or Positions are terminated and replaced by the Pool Deliver Obligations,³⁴ Pool Receive Obligations,³⁵ and related payment obligations to and from FICC. Each Clearing Member then provides appropriate instructions to its clearing bank to deliver to MBSD, and/or to receive from MBSD, Eligible Securities against payment or receipt at the appropriate settlement value.

Clearing Members are required to settle certain obligations directly with their applicable settlement counterparties (*i.e.*, outside of FICC).³⁶ These obligations include (1) Pool Instructs that are not included in Pool Netting (either because they are ineligible or because they do not meet selection criteria for inclusion); and (2) Specified Pool Trades, which are not eligible for Pool Netting. Upon settling such obligations, Clearing Members must notify FICC by submitting a Notification of Settlement to MBSD for pool settlements relating to all trade types (excluding Option Contracts).³⁷ Notification of Settlement is required for bilateral settlement because MBSD will not otherwise know that the subject pools have actually settled directly between Clearing Members. Upon both Clearing Members' submission of Notification of Settlement, the relevant obligation is deemed to have settled and is, therefore, no longer subject to MBSD's risk management.

B. Proposed Changes to MBSD's Trade Comparison and Netting Processes

FICC proposes to novate all transactions (except Option Contracts) at the time of trade comparison. Upon trade comparison, the deliver, receive, and related payment obligations between the Clearing Members, with respect to SBO-Destined Trades and Trade-for-Trade Transactions, would terminate and be replaced by identical obligations to and from FICC (*i.e.*, FICC would become the buyer to every seller and the seller to every buyer). A similar process would occur for Specified Pool Trades and Stipulated Trades, except that, for those trades, the existing deliver, receive, and related payment obligations would terminate and be replaced with obligations to deliver, receive and make payment for securities

that satisfy the same generic criteria (such as coupon rate, maturity, agency, and product) as the securities underlying the Specified Pool Trades or Stipulated Trades.³⁸ In addition, FICC proposes to treat itself as the settlement counterparty throughout the lifecycle of the trade for netting, processing, and settlement purposes.³⁹ These changes are described in detail below.

1. SBO-Destined Trades

As described above, FICC currently novates SBO-Destined Trades at the time of trade comparison; however, FICC does not currently treat itself as the settlement counterparty for netting and processing purposes until after the Pool Netting process is complete and FICC has established Pool Receive Obligations or Pool Deliver Obligations. As a result, Clearing Members are directed to (1) allocate pools through the EPN Service to designated SBO Contra-Side Members and (2) submit Pool Instructs through the RTTM system.⁴⁰

Under the Proposed Rule Change, FICC would treat itself as settlement counterparty for netting and processing purposes from the time of trade comparison. SBO-Destined Trades would proceed to the TBA Netting process as they do currently; however, the SBO positions that result from the TBA Netting process would reflect FICC as the settlement counterparty. Thus, Clearing Members would no longer settle with a designated SBO Contra-Side Member,⁴¹ but with FICC instead.

On 48-Hour Day, Clearing Members that are Pool Sellers would notify MBSD (rather than their designated SBO Contra-Side Member) through the EPN Service of the allocated pools. FICC would then submit corresponding notifications to Clearing Members that are Pool Buyers. Clearing Members would continue to submit Pool Instructs to MBSD on 48-Hour Day through FICC's RTTM system. If a Clearing Member does not submit its Pool

Instructs by the established deadline, FICC would determine and apply the Pool Instructs for that Clearing Member. Such determination would be based on the allocated pools that the Clearing Member has submitted through the EPN Service. As a result of this proposed change, all pools would be compared, and FICC would no longer require Clearing Members to settle uncomparated pools directly with their applicable settlement counterparties (*i.e.*, outside of FICC).

Additionally, FICC proposes to eliminate the trade size restriction for SBO-Destined Trades. Currently, SBO-Destined Trades are only eligible for the TBA Netting process in multiple amounts of one million, with the minimum set at one million. FICC proposes to remove this size restriction from the RTTM system so that Clearing Members would be permitted to submit SBO-Destined Trades in any trade size. Since trade size restrictions are not reflected in the MBSD Rules, this proposed change would not necessitate any changes to the MBSD Rules. For the avoidance of doubt, FICC does not propose to change the trade size restrictions for Trade-for-Trade Transactions or Specified Pool Trades.

2. Trade-for-Trade Transactions

Currently, as described above, FICC does not novate Trade-for-Trade Transactions or treat itself as settlement counterparty for purposes of netting, processing, and settlement until, in each case, the Pool Netting process is complete and each Clearing Member receives their Pool Receive Obligation or Pool Deliver Obligations, as applicable, from FICC.⁴² As a result, Clearing Members are required to allocate pools to their original counterparties through the EPN Service, and submit Pool Instructs through the RTTM system. Once Pool Netting is complete, the deliver, receive, and related payment obligations between Clearing Members that were created by compared pools that comprise a Pool Net Settlement Position are terminated and replaced by Pool Deliver Obligations, Pool Receive Obligations, and related payment obligations to and from FICC.⁴³

Under the Proposed Rule Change, FICC would novate Trade-for-Trade Transactions at trade comparison and treat itself as settlement counterparty, at that time, for purposes of processing and settlement. Similar to the process with SBO-Destined Trades, Clearing Members with an obligation to deliver pools would notify MBSD (rather than

³⁸ In other words, FICC would not novate or guarantee the obligations to deliver the particular securities underlying Specified Pool Trades or securities that contain the particular stipulations set forth in Stipulated Trades.

³⁹ Upon trade comparison, Clearing Members would receive a notification through the RTTM system establishing FICC as each party's novated and settlement counterparty.

⁴⁰ MBSD Rule 7, *supra* note 4.

⁴¹ FICC would eliminate its calculation for determining the Settlement Value of "SBO Trades" (*i.e.*, SBO Trades which a Member settles with an SBO Contra-Side Member) and "SBO Trades" (*i.e.*, SBO Trades which a Member settles with an SBOO Contra-Side member). MBSD Rule 1, *supra* note 4. The MBSD Rules refer to the calculation as "CUSIP Average Price" or "CAP" for SBO Trades and "Firm CUSIP Average Price" or "FCAP" for SBOO Trades. MBSD Rule 6, *supra* note 4.

⁴² MBSD Rule 8 Section 4, *supra* note 4.

⁴³ MBSD Rule 8 Section 6, *supra* note 4.

³⁴ The term "Pool Deliver Obligation" means a Clearing Member's obligation to deliver securities to FICC. MBSD Rule 1, *supra* note 4.

³⁵ The term "Pool Receive Obligation" means a Clearing Member's obligation to receive securities from FICC. MBSD Rule 1, *supra* note 4.

³⁶ MBSD Rule 5 Section 12 and MBSD Rule 8 Section 2, *supra* note 4.

³⁷ MBSD Rule 10, *supra* note 4.

their original counterparty) through the EPN Service, and FICC would submit corresponding notifications to Clearing Members that are Pool Buyers. Clearing Members would continue to be required to submit Pool Instructs. In the event that Pool Instructs are not submitted by the established deadline, FICC would determine Pool Instructs for that Clearing Member. Such determinations would be based on the allocated pools that the Clearing Member has submitted through the EPN Service.

3. Specified Pool Trades

Currently, as described above, FICC does not novate Specified Pool Trades during any point of the trade lifecycle (though, upon trade comparison of Specified Pool Trades, FICC guarantees the obligation to deliver, receive, and pay for securities that satisfy the same generic criteria as the underlying securities).⁴⁴ Specified Pool Trades are currently ineligible for the TBA Netting process and the Pool Netting process. Specified Pool Trades are currently settled between the original counterparties directly (*i.e.*, outside of FICC).

Under the Proposed Rule Change, FICC would novate Specified Pool Trades upon trade comparison. Such novation would be limited to the obligations to deliver, receive, and make payment for securities satisfying the same generic criteria as the securities underlying the Specified Pool Trades. As a result, upon trade comparison, the existing deliver, receive, and related payment obligations between Clearing Members under Specified Pool Trades would be terminated and replaced with obligations to or from FICC to deliver, receive, and make payment for securities satisfying the same generic criteria as the securities underlying the Specified Pool Trades. FICC would not novate the obligation to deliver the securities for the particular specified pool.

Additionally, FICC proposes to settle Specified Pool Trades directly with the Clearing Member party thereto (rather than require that counterparties to such trades settle directly with one another). No other changes are being proposed with respect to the processing of Specified Pool Trades. Such trades would continue to be ineligible for the TBA Netting and Pool Netting systems.

4. Stipulated Trades

Currently, as described above, FICC does not treat Stipulated Trades as a separate type of trading activity because Clearing Members submit Stipulated

Trades to FICC as Trade-for-Trade Transactions, without notifying FICC of the stipulations. Under the Proposed Rule Change, FICC would add Stipulated Trades as a new trade type that would be eligible for processing by MBSB. FICC would guarantee and novate Stipulated Trades at trade comparison, provided that such trades meet the requirements of the MBSB Rules and are entered into in good faith. Such guarantee and novation would be limited to the obligations to deliver, receive, and make payment for securities satisfying the same generic criteria as the securities underlying the Stipulated Trade, but not the obligation to deliver securities that contain the particular stipulations contained in the Stipulated Trades. At trade comparison, the deliver, receive, and related payment obligations between Clearing Members would be terminated and replaced with obligations to or from FICC to deliver, receive, and make payment for securities satisfying the same generic criteria as the securities underlying the Stipulated Trades.

Because of the narrow nature of FICC's guarantee and novation, in the event of a Clearing Member's default, FICC would only be required to deliver, receive, or make payment for securities that have the same generic terms, such as coupon rate, maturity, agency, and product, as the securities underlying the Stipulated Transaction.

Clearing Members would be required to allocate Stipulated Trades to FICC through the EPN Service. Such allocation would result in the creation of pool obligations, which would settle with FICC based on the settlement date agreed to as part of the terms of the trade. Similar to Specified Pool Trades, Stipulated Trades would not be eligible for the TBA Netting process and the Pool Netting process.

5. Notification of Settlement Process

As described above, the Notification of Settlement process currently requires Clearing Members to notify FICC of obligations that have settled directly between Clearing Members and their applicable settlement counterparties.⁴⁵ Once both parties to a transaction submit a Notification of Settlement to MBSB through the RTTM system, the obligations are no longer subject to MBSB's margin calculation process.⁴⁶ Because, under the Proposed Rule Change, FICC would novate and directly settle all SBO-Destined Transactions, Trade-for-Trade Transactions, and Specified Pool Trades, the Notification

of Settlement process would become obsolete. Therefore, FICC proposes to delete Notification of Settlement from the MBSB Rules.

6. Do Not Allocate ("DNA") Process

Under the Proposed Rule Change, FICC would establish a process to enable Clearing Members to offset Trade-for-Trade Transactions⁴⁷ and SBON Trades. This process would be referred to as the "Do Not Allocate" or "DNA" process. The purpose of this process is to exclude SBON Trades and Trade-for-Trade Transactions from the pool allocation process⁴⁸ and securities settlement.

The DNA process would be available to Clearing Members at the start of the business day on 48-Hour Day through 4:30 p.m.⁴⁹ on 24-Hour Day. During this time, Clearing Members with two or more open TBA Obligations⁵⁰ with the same Par Amount,⁵¹ CUSIP Number, and SIFMA designated settlement date would be permitted to offset such obligations. In order to initiate the offset, Clearing Members would be required to submit a request ("DNA Request") to MBSB through the RTTM system. Upon FICC's validation of this request, the obligations would be reduced, and the Clearing Member would not be required to allocate pools against such obligations. As a result, a Clearing Member's overall number of open obligations would be reduced.

Clearing Members would be permitted to cancel a DNA Request; however, such cancellation must be submitted through the RTTM system prior to the time that the designated offsetting TBA Obligations have settled. Upon FICC's timely receipt of a cancellation request, the trades that were previously marked for the DNA process would reopen and the Clearing Member would be expected

⁴⁷ Specified Pool Trades and Stipulated Trades would not be eligible for the proposed DNA process because such trades are not eligible for the Pool Netting process. MBSB Rule 8, *supra* note 4.

⁴⁸ As noted above, the pool allocation process requires Clearing Members to allocate pools on 48-Hour Day through the EPN Service. Under the Proposed Rule Change, Clearing Members would not be required to allocate pools for obligations that have been offset through the DNA process.

⁴⁹ All times referred herein are Eastern Time.

⁵⁰ The term "TBA Obligations" means SBO-Destined obligations and, with respect to Trade-for-Trade Transactions, settlement obligations generated by the Trade Comparison system. MBSB Rule 1, *supra* note 4.

⁵¹ The term "Par Amount" means for Trade-for-Trade and SBO Transactions, Option Contracts and Pool Deliver and Pool Receive Obligations, the current face value of a Security to be delivered on the Contractual Settlement Date. With respect to Specified Pool Trades, "Par Amount" shall mean the original face value of a Security to be delivered on the Contractual Settlement Date. MBSB Rule 1, *supra* note 4.

⁴⁴ MBSB Rule 5, *supra* note 4.

⁴⁵ MBSB Rule 10, *supra* note 4.

⁴⁶ MBSB Rule 4, *supra* note 4.

to notify MBSB through the EPN Service of the pools that such Clearing Member intends to allocate to the open obligations.⁵²

The proposed DNA process would generate Cash Settlement credits and debits from the price differential of the resulting offsetting obligations. The proposed Cash Settlement obligations are described more fully below in Item 9.

7. Expanded Pool Netting Process

As described above, the Pool Netting system reduces the number of pool settlements by netting Pool Instructs stemming from SBON Trades and Trade-for-Trade Transactions to arrive at a single net position per counterparty in a particular pool number for next-day delivery. Prior to the Pool Netting process, Pool Sellers must notify their Pool Buyers through MBSB's EPN Service of the pools to be allocated in satisfaction of a TBA Obligation. In accordance with the SIFMA Guidelines,⁵³ such notifications must occur before 3:00 p.m. on 48-Hour Day.⁵⁴ Notifications that take place after this time are considered late, and the delivery of such pools to the related Pool Buyers will be delayed for one additional business day.

In order to capture notifications submitted after 3:00 p.m. on 48-Hour Day through 4:30 p.m. on 24-Hour Day, FICC proposes to establish an additional netting cycle, referred to as "Expanded Pool Netting." Similar to the initial Pool Netting process, Expanded Pool Netting would result in a reduction in the number of Pool Delivery Obligations. As with the existing Pool Netting process, the proposed Expanded Pool Netting process would (1) calculate Pool Net Settlement Positions in a manner that is consistent with Section 3 of MBSB Rule 8, and (2) allocate Pool Deliver Obligations and Pool Receive Obligations in a manner that is consistent with Section 4 of MBSB Rule 8.

The Expanded Pool Netting process would occur four times per month in accordance with the SIFMA designated settlement dates. Pool Net Settlement Positions and the resultant Pool Deliver Obligations and Pool Receive Obligations would only be provided to Clearing Members during such times. The proposed Expanded Pool Netting process would generate Cash Settlement

credits and debits, described more fully below in Item 9.

8. Give-Up Process for Brokered Transactions

Currently, as described above, FICC operates its brokered business on a "give-up" basis, which means that MBSB discloses (*i.e.*, "gives-up") the identity of each Dealer to a Brokered Transaction after a period of time.⁵⁵ Under the Proposed Rule Change, FICC would eliminate the need to disclose Dealers' identities because FICC would novate all Brokered Transactions and treat itself as the settlement counterparty upon trade comparison. Thus, the report that FICC issues after trade comparison of a Brokered Transaction would refer to FICC as settlement counterparty.

9. Cash Settlement Calculations

As described above, Cash Settlement is a daily process of generating a single net credit or debit cash amount at the Aggregated Account level and settling those cash amounts between Clearing Members and MBSB.⁵⁶ FICC's proposal to become the settlement counterparty upon trade comparison and the proposed DNA process would require several changes to the Cash Settlement calculation described below.⁵⁷

- *SBO Market Differential.* Under the Proposed Rule Change, FICC would eliminate the SBO Market Differential⁵⁸ because it reflects the price difference for SBO positions settled among Clearing Members. This amount would no longer be required because Clearing Members would settle all SBO-Destined Trades directly with FICC.

- *TBA Transaction Adjustment Payment.* Under the Proposed Rule Change, FICC would add the TBA Transaction Adjustment Payment to reflect the cash differential that would result when calculating the net proceeds of the contractual quantity of an SBO-Destined Trade when comparing such trade's Settlement Price⁵⁹ and the

System Price.⁶⁰ The proposed TBA Transaction Adjustment Payment would be an amount equal to the difference between the SBO-Destined Trade's Settlement Price and the System Price, multiplied by the contractual quantity of such trade, and then divided by 100. To differentiate between the buyer and seller of the transaction, an indicator of -1 for the buy trade and +1 for the sell trade is multiplied by the contractual quantity of such trade.

- *Expanded Pool Net Transaction Adjustment Payment.* Under the Proposed Rule Change, FICC would add the Expanded Pool Net Transaction Adjustment Payment to be applied when a Clearing Member misses the deadline established by FICC for the Pool Netting process. Unlike the daily Pool Netting process, the Expanded Pool Netting process would only run four times per month in accordance with the SIFMA designated settlement dates. As a result, an Expanded Pool Net Transaction Adjustment Payment would only occur four times per month. The Expanded Pool Net Transaction Adjustment Payment would reflect an amount equal to the difference between the System Price and the SBON Trade's Settlement Price or Trade-for-Trade Transaction's Settlement Price, as applicable, multiplied by the total current face value of the pools used to satisfy such obligation, and then divided by 100. To differentiate between a buy and sell transaction, an indicator of +1 for a buy trade and -1 for a sell trade would be multiplied by the total current face value of the pools used to satisfy the obligation.

- *Do Not Allocate Transaction Adjustment Payment.* Under the Proposed Rule Change, FICC would add the Do Not Allocate Transaction Adjustment Payment to reflect the cash differential among TBA Obligations that have been offset through the DNA process. The proposed Do Not Allocate Transaction Adjustment Payment would be an amount equal to the difference between the Settlement Price of the buy and sell TBA Obligation transactions multiplied by the contractual quantity. To differentiate between a buy and sell transaction, an indicator of -1 for a buy

Pool Trade, or SBO-Destined Trade, the contractual settlement price agreed to by the parties; (b) in the case of an SBON Trade, the CUSIP Average Price; (c) in the case of an SBOO Trade, the Firm CUSIP Average Price; and (d) in the case of a Pool Deliver or Pool Receive Obligation, the Pool Net Price. MBSB Rule 1, *supra* note 4.

⁶⁰The term "System Price" means the price for any trade or any Pool Deliver Obligations or Pool Receive Obligation not including accrued interest, established by FICC on each Business Day, based on current market information, for each security. MBSB Rule 1, *supra* note 4.

⁵² A detailed example of the DNA process is described in the Notice. Notice, 82 FR at 23857.

⁵³ The term "SIFMA Guidelines" means the guidelines for good delivery of Mortgage-Backed Securities as promulgated from time to time by SIFMA. MBSB Rule 1, *supra* note 4.

⁵⁴ All times referenced herein are Eastern Time.

⁵⁵ MBSB Rule 5 Section 7, *supra* note 4.

⁵⁶ MBSB Rule 11, *supra* note 4.

⁵⁷ Detailed examples of the proposed changes to the Cash Settlement calculations are provided in the Notice. Notice, 82 FR at 23858-59.

⁵⁸ The term "SBO Market Differential" means the amount computed pursuant to the MBSB Rules, reflecting the difference between Firm CUSIP Average Prices (*i.e.*, the average purchase or sale contract price of a Member's SBO-Destined Trades with a particular Original Contra-Side Member in a particular CUSIP number) or between the CUSIP Average Price (*i.e.*, the average contract price of all SBO-Destined Trades in the CUSIP number that have been netted) and the Firm CUSIP Average Price, as the case may be. MBSB Rule 1, *supra* note 4.

⁵⁹ The term "Settlement Price" means: (a) In the case of a Trade-for-Trade Transaction, Specified

trade and +1 for a sell trade is multiplied by the contractual quantity of such trade.

- *TBA Reprice Transaction Adjustment Payment.* Under the Proposed Rule Change, FICC would add the TBA Reprice Transaction Adjustment Payment to reflect the cash differential between the price of a TBA Obligation that was not allocated by a Clearing Member before the deadline established by FICC and the price of the replacement TBA Obligation that was calculated at the System Price. The TBA Reprice Transaction Adjustment Payment would be an amount equal to the difference between the TBA Obligation's Settlement Price and the System Price, multiplied by the unallocated contractual quantity, and then divided by 100. To differentiate between a buy and sell transaction, an indicator of -1 for a sell trade and +1 for a buy trade is multiplied by the unallocated pool's contractual quantity.

- *Variance Transaction Adjustment Payment.* Under the Proposed Rule Change, FICC would add the Variance Transaction Adjustment Payment to capture the variance (*i.e.*, difference)⁶¹ between a TBA Obligation and the current face value of the pools allocated in satisfaction of such obligation. Specifically, this payment would reflect the cash differential calculated between the SBON Trade's Settlement Price or the Trade-for-Trade Transaction's Settlement Price, as applicable, and the System Price using the variance of the Pool Netting process or the Expanded Pool Netting process, as applicable, based on the current face value of the pools used in satisfaction of the trade. The Variance Transaction Adjustment Payment would be an amount equal to the difference between the SBON Trade's Settlement Price or the Trade-for-Trade Transaction's Settlement Price, as applicable, and the System Price, multiplied by the difference between the TBA Obligation and the allocated pools used in satisfaction of such trade, and then divided by 100. To differentiate between a buy and sell transaction, an indicator of -1 for a buy trade and +1 for a sell trade would be multiplied by the total variance amount.

- *Factor Update Adjustment Payment.* Under the Proposed Rule Change, FICC would add the Factor Update Adjustment Payment, to be applied when updated pool factor

information is released after the clearing bank's settlement of a pool. This update would create a cash differential that would require a debit to the seller and a credit to the buyer.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act⁶² directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization. After carefully considering the Proposed Rule Change, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to FICC. In particular, the Commission finds that the Proposed Rule Change is consistent with Section 17A(b)(3)(F) of the Act⁶³ and Rule 17Ad-22(e)(21)⁶⁴ under the Act.

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.⁶⁵ As discussed above, the Proposed Rule Change would result in FICC novating and treating itself as the settlement counterparty from the time of trade comparison with respect to SBO-Destined Trades, Trade-for-Trade Transactions, Specified Pool Trades, and Stipulated Trades. By novating such trades to FICC and treating FICC as the settlement counterparty to such trades the Proposed Rule Change would make FICC the only counterparty to whom the Clearing Members are obligated, as compared to the current process where Clearing Members may have multiple counterparties with whom they need to settle multiple obligations outside of FICC. Additionally, the Proposed Rule Change would also accelerate the point in time at which FICC becomes that ultimate counterparty (*i.e.*, at the time of trade comparison), resulting in such trades being governed by the MBSD Rules from that time. Collectively, the proposed changes are designed to simplify, streamline, and centralize trade processing under the MBSD Rules, which would help promote the prompt and accurate clearance and settlement of these types of securities transactions. Therefore, the Commission believes that

the Proposed Rule Change is consistent with Section 17A(b)(3)(F) of the Act.⁶⁶

As discussed above, the Proposed Rule Change would make a number of operational changes with respect to MBSD trade processing. Specifically, the Proposed Rule Change would provide that (1) the submission of Pool Instructs by Clearing Members would become optional because FICC would be permitted to submit on behalf Clearing Members; (2) Clearing Members would no longer be required to fulfill Notification of Settlement obligations because all of the above-referenced transactions would settle with FICC; (3) Clearing Members would have the ability to exclude TBA Obligations from the pool allocation process, netting, and securities settlement through the DNA process; (4) Clearing Members would have the ability to net their pools via the Expanded Pool Netting process in the event that such Clearing Members miss the established deadline for the initial Pool Netting process; (5) Dealer Netting Members would remain anonymous with the elimination of the "give-up" process for Brokered Transactions; (6) Clearing Members would be allowed to submit SBO-Destined Trades in all trade sizes; and (7) Clearing Members would be allowed to submit Stipulated Trades as a new trade type. These proposed changes are designed to eliminate operational steps in the current trade processing cycle and enable Clearing Members to take advantage of MBSD's trade processing efficiencies at an earlier point, which would help promote the prompt and accurate clearance and settlement of these types of securities transactions. Therefore, Commission believes that the Proposed Rule Change is consistent with Section 17A(b)(3)(F) of the Act.⁶⁷

Rule 17Ad-22(e)(21) under the Act requires, in part, that FICC establish, implement, maintain, and enforce written policies and procedures reasonably designed to be efficient and effective in meeting the requirements of its participants and the markets it serves, and regularly review the efficiency and effectiveness of its (i) clearing and settlement arrangements; (ii) operating structure; and (iii) scope of products cleared or settled.⁶⁸ As discussed above, the Proposed Rule Change would enable FICC to novate MBS trades at an earlier point the trade lifecycle (*i.e.*, upon trade comparison). Additionally, as described above, the Proposed Rule Change would add Stipulated Trades as a new trade type

⁶¹ Pursuant to the SIFMA Guidelines, TBA trades are allowed to have a variance equal to plus or minus 0.01 percent of the dollar amount of the transaction agreed to by the parties. As a result of this guideline, FICC would capture the variance of TBA Obligations and the current face value of the pools allocated in satisfaction of such obligations.

⁶² 15 U.S.C. 78s(b)(2)(C).

⁶³ 15 U.S.C. 78q-1(b)(3)(F).

⁶⁴ 17 CFR 240.17Ad-22(e)(21).

⁶⁵ 15 U.S.C. 78q-1(b)(3)(F).

⁶⁶ 15 U.S.C. 78q-1(b)(3)(F).

⁶⁷ *Id.*

⁶⁸ See 17 CFR 240.17Ad-22(e)(21).

that could be cleared and settled at MBSD, and it would remove the size restrictions with respect to SBO-Destined Trades.

With these changes, which were developed in consideration of the feedback received from MBSD Clearing Members,⁶⁹ FICC could provide a more efficient and effective operational processes in connection with the clearance and settlement of MBS trades, expand the scope of products cleared and settled by MBSD, and enable Clearing Members to submit such trades in any size. Therefore, the Commission believes that the Proposed Rule Change is designed to help FICC be more efficient and effective in meeting the requirements of its participants and the markets it serves, and in providing clearing and settlement arrangements, operating structure, and scope of products cleared or settled, which is consistent with Rule 17Ad-22(e)(21).

V. Conclusion

On the basis of the foregoing, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act⁷⁰ and the rules and regulations promulgated thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act⁷¹ that proposed rule change SR-FICC-2017-012 be, and hereby is, *approved*.⁷²

⁶⁹ FICC describes in Item 7 of its Form 19b-4 responses the extent to which the proposed changes were informed by feedback from its Clearing Members and various working groups over numerous years. Available at <http://www.dtcc.com/legal/sec-rule-filings>. Specifically, FICC states that in 2015, 92 Clearing Member representatives participated in forums held in June, and 157 representatives participated in forums in September and October. *Id.* FICC states that in 2016, 139 representatives participated in forums held in March, 241 representatives participated in forums held in August, and 121 participated in forums held in December. *Id.* Additionally, FICC states that it held a number of conference calls with individual Clearing Members to address questions and concerns on the subject. *Id.* Moreover, FICC explains that the Proposed Rule Change was even the subject of a prior rule filing with the Commission to fund the proposed changes. *Id.* See also Exchange Act Release No. 74033 (January 12, 2015), 80 FR 2452 (January 16, 2015) (SR-FICC-2014-12).

⁷⁰ 15 U.S.C. 78q-1.

⁷¹ 15 U.S.C. 78s(b)(2).

⁷² In approving the proposed rule change, the Commission considered the proposals' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷³

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81044; File No. SR-NSCC-2017-009]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Further Describe and Codify Existing Practices Relating to the Bond Haircut

June 29, 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 June 23, 2017, National Securities Clearing Corporation ("NSCC") 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 clearing agency. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to NSCC's Rules & Procedures ("Rules")³ in order to (1) provide additional transparency in the Rules with respect to the existing methodology for calculating margin on Members' Net Unsettled Positions and Net Balance Order Unsettled Positions (for purposes of this filing, referred to collectively herein as "Net Unsettled Positions") in corporate and municipal bonds ("Bond Haircut"), which are excluded from the parametric volatility component of the margin calculation ("VaR Charge"); and (2) codify NSCC's existing practice of applying the Bond Haircut to all corporate and municipal bonds without discretion, as described below.

⁷³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Terms not defined herein are defined in the Rules, available at www.dtcc.com/-/media/Files/Downloads/legal/rules/nsc_rules.pdf.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) *Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Proposal Overview

The proposed rule change would provide additional transparency in the Rules with respect to the calculation and the application of the Bond Haircut. NSCC currently excludes Net Unsettled Positions in corporate and municipal bonds from its parametric VaR calculation and instead charges a Bond Haircut, which is calculated by multiplying the absolute value of the Net Unsettled Positions in each security by a percentage that is no less than two percent.

NSCC is proposing to enhance the description of the Bond Haircut in Procedure XV to provide more detail regarding the determination of the applied percentage, and to codify NSCC's existing practice of applying the Bond Haircut to all corporate and municipal bonds without discretion.

The Required Deposit and the Bond Haircut

A primary objective of NSCC's Clearing Fund is to have on deposit from each applicable Member assets sufficient to satisfy losses that may otherwise be incurred by NSCC as the result of the default of the Member and the resultant close out of that Member's unsettled positions under NSCC's trade guaranty. Each Member's Clearing Fund required deposit is calculated daily pursuant to a formula set forth in Procedure XV of the Rules designed to provide sufficient funds to cover this risk of loss. The Clearing Fund formula accounts for a variety of risk factors through the application of a number of charges, each described in Procedure XV.

The VaR Charge is a core component of this formula and is designed to calculate the amount of money that may be lost on a portfolio over a given period of time assumed necessary to liquidate

the portfolio, within a given level of confidence. Pursuant to Procedure XV, NSCC may currently exclude from this calculation Net Unsettled Positions in classes of securities whose volatility is amenable to generally accepted statistical analysis only in a complex manner, including corporate and municipal bonds.

NSCC believes the Bond Haircut is a more appropriate measure of the risk presented to NSCC by its Members' positions in corporate and municipal bonds than the VaR Charge because the volatility of these securities is generally amenable to statistical analysis only in a complex manner. Because NSCC believes the Bond Haircut is more effective in capturing the risks presented by corporate and municipal bonds, in addition to adding more detail to Procedure XV regarding the calculation of the Bond Haircut, NSCC is also proposing to codify its existing practice by removing reference to discretion in application of the Bond Haircut to these securities.

a. Corporate Bonds

In order to calculate the Bond Haircut for positions in corporate bonds, NSCC first categorizes corporate bonds into security groups according to the bonds' remaining time to maturity and credit rating. NSCC then aligns each security group against a Merrill Lynch bond index.⁴ Each bond index is chosen to provide a valuation proxy for computing the appropriate margin for securities categorized into that group. NSCC calculates a haircut rate applicable to each security group based on historical returns of the aligned Merrill Lynch bond index in the specified look-back period and a predetermined calibration percentile. NSCC is proposing to clarify in Procedure XV that the look-back period shall be no shorter than 10 years. Currently, the look-back period is from 1995 to present day.⁵ The haircut rate

⁴ Bond indices are widely used to measure the risk of particular classes of corporate bonds. By aligning each security group to a Merrill Lynch bond index, NSCC is able to use widely accepted historical pricing information as a valuation proxy for each security group to correlate with the actual risk coverage for the particular attributes of the bonds. Using these reliable pricing proxies permits NSCC to conduct loss estimation associated with clearing these securities in a less complex statistical manner, while achieving the desired coverage target.

⁵ NSCC regularly reviews whether its margining methodology is achieving the desired risk mitigation objectives. In connection with such review, NSCC has determined to make technical enhancements to the calculation of the Bond Haircut as applied to positions in corporate bonds, including an adjustment to this look-back period. Such enhancements shall be proposed pursuant to a separate advance notice filing, to be filed pursuant to Section 806(e)(1) of the Payment, Clearing, and

for each security group is recalculated periodically, based on a predetermined frequency. While NSCC is proposing to clarify in Procedure XV that such recalculation shall occur at least annually, currently the recalculation is performed on a daily basis.⁶

Further, NSCC determines the appropriate specified look-back period and predetermined calibration percentile, which shall not be less than 99 percent, in order to account for the particularized risk characteristics of corporate bonds, including market, liquidity and idiosyncratic risk (*i.e.*, the volatility of a particular issue compared to the volatility of the index).

b. Municipal Bonds

The Bond Haircut for positions in municipal bonds is calculated at the CUSIP level. In order to account for price and valuation volatility, NSCC has set a tenor-based haircut schedule that applies according to the remaining time to maturity for separate categories of municipal bonds. Currently, NSCC applies this schedule to six separate categories of municipal bonds. For municipal bonds rated BBB+ or lower and for non-rated bonds, an additional factor is applied based on the applicable municipal sector. If a municipal bond is not mapped to any particular sector, the highest numerical municipal factor is applied to positions in that bond. NSCC reviews and re-assigns, as necessary, the risk factors assigned to each municipal sector no less frequently than annually.

This additional factor is added to lower rated municipal bonds because variable risk factors exist between municipal sectors. In addition to the risk associated with time-to-maturity, municipal bonds may also pose credit risk depending upon the bonds' assigned credit rating. The added sector-based factor, applicable to lower-rated municipal bonds, is designed to compensate for this additional credit risk. Therefore, NSCC believes the Bond Haircut as applied to municipal bonds is also an appropriate measure for the risk presented by these positions.

Proposed Changes to Procedure XV

In order to make the proposed changes, NSCC would exclude Net Unsettled Positions in corporate and municipal bonds from Procedure XV, Sections I.(A)(1)(a)(ii) and (2)(a)(ii). These Sections of Procedure XV would continue to provide NSCC with

Settlement Supervision Act of 2010. 12 U.S.C. 5465(e)(1).

⁶ NSCC has also determined that the frequency of re-calibration of the haircut rates should be adjusted, and will propose to change this frequency pursuant to an advance notice filing. *Id.*

discretion to exclude certain securities, as described therein and other than corporate and municipal bonds, from its VaR margin calculation and instead apply a haircut-based margin charge. NSCC would add new Sections I.(A)(1)(a)(iii) and (2)(a)(iii) to Procedure XV to include more transparency around the determination of the Bond Haircut and to make clear that the Bond Haircut shall apply to all Net Unsettled Positions in corporate and municipal bonds, in lieu of a VaR Charge, and would not be subject to NSCC's discretion.

2. Statutory Basis

Section 17A(b)(3)(F) of the Act, requires, in part, that the Rules promote the prompt and accurate clearance and settlement of securities transactions.⁷ The proposed rule change with respect to the Bond Haircut would provide additional transparency in the Rules regarding the calculation and application of the Bond Haircut, and would codify NSCC's practice to apply the Bond Haircut to all positions in corporate and municipal bonds without discretion. The proposed changes would ensure that the Rules remain transparent, accurate and clear, which would enable all stakeholders to readily understand their rights and obligations in connection with NSCC's clearance and settlement of securities transactions. Therefore, NSCC believes that the proposed rule changes would promote the prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act.⁸

Rule 17Ad-22(e)(23)(i) under the Act requires, in part, that NSCC establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for publicly disclosing all relevant rules and material procedures.⁹ Rule 17Ad-22(e)(23)(ii) under the Act requires, in part, that NSCC establish, implement, maintain and enforce written policies and procedures reasonably designed to provide sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they incur by participating in NSCC.¹⁰ The proposed rule change enhances the transparency in the Rules regarding the calculation and application of the Bond Haircut and codifies NSCC's practice to apply the Bond Haircut to all positions in corporate and municipal bonds without discretion. In this way, the

⁷ 15 U.S.C. 78q-1(b)(3)(F).

⁸ *Id.*

⁹ 17 CFR 240.17Ad-22(e)(23)(i).

¹⁰ 17 CFR 240.17Ad-22(e)(23)(ii).

proposed rule change provides for the public disclosure, through the new Procedure XV, Sections I.(A)(1)(a)(iii) and (2)(a)(iii) of the Rules, of the rules and procedures through which NSCC calculates and applies the Bond Haircut. The proposed rule change would allow NSCC to further provide its participants with sufficient information regarding the Bond Haircut to enable those participants to identify and evaluate the risks and material costs associated with the calculation and application of the Bond Haircut, which are incurred through their participation in NSCC. As such, NSCC believes the proposed rule change is consistent with Rule 17Ad-22(e)(23)(i) and (ii) under the Act.¹¹

(B) Clearing Agency's Statement on Burden on Competition

NSCC does not believe that the proposed rule change would impact competition.¹² The proposed rule change would increase transparency of the Rules by codifying NSCC's current practice with respect to the assessment and imposition of the Bond Haircut. As such, NSCC believes that the proposed rule change would not impact Members or have any impact on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NSCC has not received any written comments relating to this proposal. NSCC will notify the Commission of any written comments it receives.

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 and paragraph (f) of Rule 19b-4 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.

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-NSCC-2017-009 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR-NSCC-2017-009. 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 NSCC and on DTCC's Web site (<http://dtcc.com/legal/sec-rule-filings.aspx>). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NSCC-2017-009 and should be submitted on or before July 27, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2017-14141 Filed 7-5-17; 8:45 am]

BILLING CODE 8011-01-P

DEPARTMENT OF STATE

[Public Notice 10050]

60-Day Notice of Proposed Information Collection: Individual, Corporate or Foundation, and Government Donor Letter Applications

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to September 5, 2017.

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

- *Web:* Persons with access to the Internet may comment on this notice by going to www.Regulations.gov. You can search for the document by entering "Docket Number: DOS-2017-0027" in the Search field. Then click the "Comment Now" button and complete the comment form.

- *Email:* MEDCS@state.gov.
- *Regular Mail:* Send written comments to: M/EDCS Room 7427B, 2201 C Street, Washington, DC 20520.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT:

Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Chanel Wallace, who may be reached on (202) 647-7730 or at WallaceCR2@stat.gov.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Individual, Corporate or Foundation and Government Donor Letter Application.

- *OMB Control Number:* 1405-0218.

- *Type of Request:* Extension of a Currently Approved Collection.

- *Originating Office:* Office of Emergencies in the Diplomatic and Consular Service (M/EDCS).

- *Form Number:* DS-4273, DS-4272 and DS-4271.

- *Respondents:* Individuals, Corporations, or Foundations that make donations to the Department.

¹¹ 17 CFR 240.17Ad-22(e)(23)(i), (ii).

¹² 15 U.S.C. 78q-1(b)(3)(I).

¹³ 17 CFR 200.30-3(a)(12).

- *Estimated Number of Respondents:* 4,333.

- *Estimated Number of Responses:* 4,333.

- *Average Time per Response:* 5 minutes per response.

- *Total Estimated Burden Time:* 361 hours.

- *Frequency:* On occasion.

- *Obligation to Respond:* Mandatory.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.

- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.

- Enhance the quality, utility, and clarity of the information to be collected.

- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The Office of Emergencies in the Diplomatic and Consular Service (EDCS) manages the solicitation and acceptance of gifts to the U.S. Department of State. The information requested via donor letters is a necessary first step to accepting donations. The information is sought pursuant to 22 U.S.C. 2697, 5 U.S.C. 7324 and 22 CFR part 3) and will be used by EDCS's Gift Fund Coordinator to demonstrate the donor's intention to donate either an in-kind or monetary gift to the Department. This information is mandatory and must be completed before the gift is received by the Department.

Methodology

The information collection forms will be available electronically via the State Department's Internet Web site (<http://mydata.state.sbu>). Donors can also complete hard-copies of the form and mail them to EDCS if internet access is not available.

Frances Gidez,

Gift Funds and K Funds Coordinator, M/EDCS, Department of State.

[FR Doc. 2017-14200 Filed 7-5-17; 8:45 am]

BILLING CODE 4710-35-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent of waiver with respect to land; Bismarck Municipal Airport, Bismarck, North Dakota.

SUMMARY: The FAA is considering a proposal to change 33.3 acres of airport land from aeronautical use to non-aeronautical use and to authorize the lease of airport property located at Bismarck Municipal Airport, Bismarck, North Dakota. The aforementioned land is not needed for aeronautical use.

The property consists of five parcels in the "Bismarck Airport Addition" totaling 33.3 acres. Lot 1 Block 7, a 5.4 acre lot at 2200 University Drive, Bismarck, ND 58504. Lot 2 Block 7, a 17.4 acre lot at 1616 University Drive, Bismarck, ND 58504. Lot 3 Block 7, a 6.3 acre lot at 2101 South 12th Street, Bismarck, ND 58504. Lot 1 Block 8, a 3.0 acre lot at 1625 Airport Road, Bismarck, ND 58504. Lot 1 Block 10, a 1.2 acre lot at 1740 Airport Road, Bismarck, ND 58504. Four lots are flat grass areas maintained in accordance with the Airport Wildlife Management plan. Lot 1 Block 10 has a convenience store/gas station on the parcel. Bismarck Municipal Airport intends to enter into leases for Non-Aeronautical commercial development that are compatible with airport operations while retaining ownership and control of activities at those locations.

DATES: Comments must be received on or before August 7, 2017.

ADDRESSES: Documents are available for review by appointment at the FAA Dakota-Minnesota Airports District Office, Mark Holzer, Program Manager, 2301 University Dr., Bldg. 23B, Bismarck, ND 58504 Telephone: (701) 323-7380/Fax: (701) 323-7399 and Bismarck Municipal Airport, Timothy J. Thorsen, Assistant Airport Director, P.O. Box 991, Bismarck, ND 58502, (701) 355-1808.

Written comments on the Sponsor's request must be delivered or mailed to: Mark Holzer, Program Manager, Federal Aviation Administration, Dakota-Minnesota Airports District Office, 2301 University Dr., Bldg. 23B, Bismarck, ND 58504, Telephone Number: (701) 323-7380/FAX Number: (701) 323-7399.

FOR FURTHER INFORMATION CONTACT: Mark Holzer, Program Manager, Federal Aviation Administration, Dakota-Minnesota Airports District Office, 2301

University Dr., Bldg. 23B, Bismarck, ND 58504. Telephone Number: (701) 323-7380/FAX Number: (701) 323-7399.

SUPPLEMENTARY INFORMATION: In accordance with section 47107(h) of Title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

Four lots are flat grass areas maintained in accordance with the Airport Wildlife Management plan. Lot 1 Block 10 has a convenience store/gas station on the parcel. Land was acquired under the Airport Improvement Program. Projects include: F (9-32-035-C208) acquired in 1962, L (9-32-0003-02-1973) acquired in 1973, and C (9-32-035-705-1958) acquired in 1956. One portion of lot 1 Block 8 was acquired by Quit Claim Deed from the City of Bismarck May 10, 2017. Bismarck Municipal Airport intends to enter into leases, at fair market value, for Non-Aeronautical commercial development that are compatible with airport operations while retaining ownership and control of activities at those locations.

The disposition of proceeds from the lease of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999 (64 FR 7696).

This notice announces that the FAA is considering the release of the subject airport property at the Bismarck Municipal Airport, Bismarck, North Dakota from its obligations to be maintained for aeronautical purposes. Approval does not constitute a commitment by the FAA to financially assist in the change in use of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA.

Property's Legal Description

Lot 1 Block 7, Bismarck Airport Addition to the City of Bismarck.

Lot 2 Block 7, Bismarck Airport Addition to the City of Bismarck.

Lot 3 Block 7, Bismarck Airport Addition to the City of Bismarck.

Lot 1 Block 8, Bismarck Airport Addition to the City of Bismarck.

Lot 1 Block 10, Bismarck Airport Addition to the City of Bismarck.

Issued in Minneapolis, Minnesota on June 22, 2017.

Andy Peek,

Manager, Dakota-Minnesota Airports District Office FAA, Great Lakes Region.

[FR Doc. 2017-14218 Filed 7-5-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Supplemental Environmental Impact Statement: I-94 Rehabilitation Project From East of I-94 to East of Conner Avenue in Detroit, Michigan

AGENCY: U.S. Department of Transportation, Federal Highway Administration (FHWA).

ACTION: Notice of intent to prepare a Supplemental Environmental Impact Statement (SEIS) and section 4(f) evaluation.

SUMMARY: FHWA is issuing this notice to advise the public that a SEIS will be prepared for the I-94 Rehabilitation Project.

FOR FURTHER INFORMATION CONTACT: Patrick Marchman, Environmental Program Manager, Federal Highway Administration, 315 W. Allegan, Room 201, Lansing, Michigan 48933. Telephone: (517) 702-1820. Email: Patrick.Marchman@dot.gov.

SUPPLEMENTARY INFORMATION:

Background

The FHWA, in cooperation with the Michigan Department of Transportation (MDOT), will prepare a SEIS to examine the impacts of modifying the approved selected alternative for the I-94 Rehabilitation Project from the Record of Decision (FHWA-MI-EIS-01-01-F). The approved selected alternative included the complete reconstruction of 6.7 miles of I-94 in the City of Detroit, with widening from three lanes to four lanes in each direction, continuous service roads, new interchanges at M-10 and I-75 and new bridges over I-94.

The SEIS will study the use of local roads as local connections to the service drives and interchanges, modification of local access ramps to and from I-94, M-10 and I-75, and the addition of several vehicular and pedestrian bridges as well as non-motorized walkways/paths. The SEIS will analyze the potential impacts to natural, human, and cultural resources (Section 4(f), local streets, air, noise, contaminated sites, etc.).

Opportunity for input will be provided through a public involvement program. A Public Hearing on the Draft SEIS will be scheduled and held to

solicit formal input. The Draft SEIS will be made available for public review and comment and comments will be responded to in a Final SEIS. A Notice of Availability of the Draft SEIS will be made through direct mail, publication in the **Federal Register**, and other media. Notification will also be sent to appropriate Federal, State, and Participating agencies, local agencies, as well as people and private organizations that submit comments or questions. Additional project information will be made available through a widely-distributed newsletter and on the project Web site www.michigan.gov/94detroit.

Comments or questions from all interested parties concerning this proposed action and the SEIS should be directed to FHWA at the address provided above.

Paperwork Reduction

The Paperwork Reduction Act seeks, in part, to minimize the cost to the taxpayer of the creation, collection, maintenance, use, dissemination, and disposition of information. Consistent with this goal and with principles of economy and efficiency in government, FHWA tries to limit insofar as possible distribution of complete printed sets of NEPA documents. Accordingly, unless a specific request for a complete printed set of the NEPA document is received before the document is printed, FHWA and MDOT will distribute only electronic copies of the NEPA document. A complete printed set of the environmental document will be available for review at MDOT's offices; an electronic copy of the complete environmental document will be available on the Project Web site.

Issued on: June 12, 2017.

Mark G. Lewis,

Program Development Team Leader.

[FR Doc. 2017-14170 Filed 7-5-17; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. DOT-MARAD-2017-0016]

Request for Comments on the Renewal of a Previously Approved Information Collection: Cruise Vessel Security and Safety Training Provider Certification

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice and request for comments.

SUMMARY: The Maritime Administration (MARAD) invites public comments on

our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The information to be collected will be used to access the CVSSA applicants against the CVSSA Model Course Standard. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Comments must be submitted on or before September 5, 2017.

ADDRESSES: You may submit comments identified by Docket No. DOT-MARAD-2017-0116 through one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Search using the above DOT docket number and follow the online instructions for submitting comments.

- *Fax:* 1-202-493-2251.

- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Quinton Ellis, 202-366-5906, Office of Security, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Title: Cruise Vessel Security and Safety Training Provider Certification.
OMB Control Number: 2133-0547.

Type of Request: Renewal of a Previously Approved Information Collection.

Abstract: Section 3508 of the Cruise Vessel Security and Safety Act of 2010, Public Law 111-207 (July 27, 2010, as codified at 46 U.S.C. 3507-3508 (CVSSA) provides the Maritime Administrator with the discretionary authority to certify cruise vessel training providers that comply with training standards developed by the USCG, FBI and the Maritime Administration (MARAD). The certification process necessarily requires applicants to

provide supporting information to evidence their compliance with the CVSSA training standards.

Respondents: Cruise line companies and maritime industry training providers.

Affected Public: Passengers and crew onboard cruise lines.

Estimated Number of Respondents: 20.

Estimated Number of Responses: 20.

Estimated Hours per Response: 40.

Annual Estimated Total Annual

Burden Hours: 800.

Frequency of Response: Annually.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93.

* * *

By Order of the Maritime Administrator.

Dated: June 26, 2017.

Gabriel Chavez,

Acting Secretary, Maritime Administration.

[FR Doc. 2017-14095 Filed 7-5-17; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. DOT-MARAD-2017-0118]

Request for Comments on the Renewal of a Previously Approved Information Collection: Uniform Financial Reporting Requirements

AGENCY: Maritime Administration.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. The Uniform Financial Reporting Requirements are used as a basis for preparing and filing semi-annual and annual financial statements with MARAD. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on April 24, 2017.

DATES: Comments must be submitted on or before August 7, 2017.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW., Washington, DC 20503. Comments are invited on: (a) Whether the proposed collection of information is necessary for the Department's

performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT:

Daniel Ladd, Director, 202-366-1859, Office of Financial Approvals, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Title: Uniform Financial Reporting Requirements.

OMB Control Number: 2133-0005.

Type of Request: Renewal of a Previously Approved Information Collection.

Abstract: The Uniform Financial Reporting Requirements are used as a basis for preparing and filing semi-annual and annual financial statements with the Maritime Administration. Regulations requiring financial reports to MARAD are authorized by Section 801, Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1211). Financial reports are also required by regulation of purchasers of ships from MARAD on credit, companies chartering ships from MARAD, and of companies having Title XI guarantee obligations (46 CFR part 298).

Affected Public: Vessel owners acquiring ships from MARAD on credit, companies chartering ships from MARAD, and companies having Title XI guarantee obligations.

Estimated Number of Respondents: 50.

Estimated Number of Responses: 100.

Estimated Hours per Response: 9.5.

Annual Estimated Total Annual Burden Hours: 950.

Frequency of Response: Twice a year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93.

* * * * *

By Order of the Maritime Administrator.

Dated: June 29, 2017.

Gabriel Chavez,

Acting Secretary, Maritime Administration.

[FR Doc. 2017-14097 Filed 7-5-17; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2017-0110]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel DIAMOND SEAS; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before August 7, 2017.

ADDRESSES: Comments should refer to docket number MARAD-2017-0110. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590. You may also send comments electronically via the Internet at <http://www.regulations.gov>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-453, Washington, DC 20590. Telephone 202-366-9309, Email Bianca.carr@dot.gov.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel DIAMOND SEAS is:

—Intended Commercial use of Vessel: “Private Vessel Charters, Passengers Only”

—Geographic Region: “Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, East Florida, California, Oregon, Washington, and Alaska (excluding waters in

Southeastern Alaska and waters north of a line between Gore Point to Cape Suckling [including the North Gulf Coast and Prince William Sound].”

The complete application is given in DOT docket MARAD–2017–0110 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD’s regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter’s interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD’s regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to www.regulations.gov, as described in the system of records notice, DOT/ALL–14 FDMS, accessible through www.dot.gov/privacy. In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

* * * * *

By Order of the Maritime Administrator.

Dated: June 29, 2017.

Gabriel Chavez,

Acting Secretary, Maritime Administration.

[FR Doc. 2017–14094 Filed 7–5–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2017–0105]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel WICKED WITCH; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before August 7, 2017.

ADDRESSES: Comments should refer to docket number MARAD–2017–0105. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at <http://www.regulations.gov>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email Bianca.carr@dot.gov.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel WICKED WITCH is:—Intended Commercial Use of Vessel: sailboat cruising
—Geographic Region: “Maryland, Virginia, District of Columbia and Florida”

The complete application is given in DOT docket MARAD–2017–0105 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-

flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD’s regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter’s interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD’s regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to www.regulations.gov, as described in the system of records notice, DOT/ALL–14 FDMS, accessible through www.dot.gov/privacy. In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121

* * * * *

By Order of the Maritime Administrator.

Dated: June 29, 2017.

Gabriel Chavez,

Acting Secretary, Maritime Administration.

[FR Doc. 2017–14090 Filed 7–5–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2014–0003; PD–37(R)]

Hazardous Materials: New York City Permit Requirements for Transportation of Certain Hazardous Materials

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of administrative determination of preemption.

Applicant: American Trucking Associations, Inc.

Local Law Affected: New York City Fire Code (FC) 2707.4 and 105.6.

Applicable Federal Requirements: Federal hazardous material transportation law (HMTA), 49 U.S.C. 5101 *et seq.*, and the Hazardous Materials Regulations (HMR), 49 CFR parts 171–180.

Mode Affected: Highway.

SUMMARY: Inspection and Permit Requirement—Federal hazardous material transportation law preempts the Fire Department of the City of New York’s permit and inspection requirements, FC 2707.4 and 105.6 (transportation of hazardous materials), with respect to trucks based outside the inspecting jurisdiction, because scheduling and conducting a vehicle inspection (as required for a permit) may cause unnecessary delays in the transportation of hazardous materials from locations outside the City of New York.

Permit Fee—Federal hazardous material transportation law preempts FDNY’s permit fee requirement.

FOR FURTHER INFORMATION CONTACT: Vincent Lopez, Office of Chief Counsel, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590; Telephone No. 202–366–4400; Facsimile No. 202–366–7041.

SUPPLEMENTARY INFORMATION:

I. Background

A. Application and Public Notice

The American Trucking Associations (ATA) applied to PHMSA for a determination on whether Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, preempts the City of New York’s requirement that those wishing to transport hazardous materials by motor vehicle must, in certain circumstances, obtain a permit. This requirement is set forth in the FC in Title 29 of the New York City Administrative Code. The Fire Department of the City of New York (FDNY) implements the FC rules in Title 3 of the Rules of the City of New York. The relevant provisions of the FC and the FDNY rules regarding the City of New York’s hazardous materials inspection and permitting program, and related fees, include:

- FC 2707—sets forth the requirements for the transportation of hazardous materials;
- FC 2707.3—prohibits the transportation of hazardous materials in quantities requiring a permit without such permit;

- FC 2707.4 and 105.6—permit requirement and exclusions;
- FDNY Rule 2707–02—sets forth routing, timing, escort, and other requirements for the transportation of hazardous materials; provides that permit holders need not conform to these requirements; and
- FC Appendix A, Section A03.1(39) and (67)—specifies the permit (inspection and re-inspection) fees.

ATA states that motor carriers “must file a separate application for each tractor or trailer,” and pay a \$210 fee “for each tractor or trailer to be inspected, and, if approved, must be ready to present copies of the permit to enforcement officials at their request.”¹ The copy of the permit form provided by ATA contains spaces for the truck and trailer numbers and the date of inspection of the vehicle or trailer. The permit form also indicates that the “Permit expires (1) one year from the above date” and the requirement that “This letter shall be carried in the cab of the truck and it shall be presented upon request to Fire Department representative.”

In summary, ATA contends that:

the City of New York’s regulatory regime is deficient in several ways. Only motor carriers are required to obtain the City of New York’s permit, which imposes an unfair burden on a single mode of transportation. The permit requirements apply only to some carriers and impedes their drivers’ ability to comply with 49 CFR 177.800(d), which mandates that “hazardous materials must be transported without unnecessary delay.” Finally, the City of New York (City) cannot show that it is using funds generated from its permit fees for hazardous materials enforcement and emergency response training.

PHMSA published notice of ATA’s application in the **Federal Register** on April 17, 2014. 79 FR 21838. On June 2, 2014, the comment period closed without any interested parties submitting comments. On April 27, 2015, we published a notice of delay in processing ATA’s application in order to conduct additional fact-finding and legal analysis in response to the application. 80 FR 23328. In order to ensure PHMSA had all of the relevant information before making a determination, we sent a letter to FDNY and requested that it submit its position on whether the HMTA preempts the New York City requirements that are the subject of this proceeding. On August

¹ ATA states that the “\$210 fee to inspect each tractor or trailer” is “far above the prevailing norm” and that “[o]ther hazardous materials transportation permits cost significantly less. For instance, the entire state of California mandates only \$100 per motor carrier.”

20, 2015, FDNY submitted its comments on ATA’s application. On October 1, 2015, we published a notice announcing that we were reopening the comment period in the proceeding to provide interested parties the opportunity to address any of the issues raised by the FDNY comments. 80 FR 59244.

In response to the October notice, we received written comments from ATA, Nouveau, Inc. (Nouveau), and the American Coatings Association (ACA). ATA indicated that its comments were intended to “provide clarity” to the FDNY comments submitted by demonstrating that the City’s registration requirement for transporting certain hazardous materials imposes an unnecessary delay and that the associated fees are significantly higher than similar fees charged by other jurisdictions. Moreover, ATA argues that that revenue collected by the City is not being used for an acceptable purpose.

Additionally, ATA in its comments sought to demonstrate for the first time that other requirements in the City’s regulations were preempted, including requirements for loading and unloading, as well as the display requirement for FDNY’s inspection sticker. However, because ATA did not raise these arguments in its initial petition, they cannot be considered now.

Generally, Nouveau and ACA support ATA’s position that certain provisions of FDNY’s hazardous materials requirements are preempted by the HMTA.

B. Prior Administrative Proceedings

As FDNY points out in its submission, this is not the first time that the City’s regulations governing the transportation of hazardous materials have been adjudicated by the U.S. Department of Transportation (DOT or Department). Specifically, in support of its position, FDNY points to the Research and Special Programs Administration’s (RSPA)² determination in the proceeding, City of New York Application for Waiver of Preemption as

² Effective February 20, 2005, PHMSA was created to further the “highest degree of safety in pipeline transportation and hazardous materials transportation,” and the Secretary of Transportation redelegated hazardous materials safety functions from the Research and Special Programs Administration (RSPA) to PHMSA’s Administrator. 49 U.S.C. 108, as amended by the Norman Y. Mineta Research and Special Programs Improvement Act (Pub. L. 108–426, section 2, 118 Stat. 2423 (Nov. 30, 2004)); and 49 CFR 1.96(b), as amended at 77 FR 49987 (Aug. 17, 2012). For consistency, the terms “PHMSA,” “the agency,” and “we” are used in the remainder of this determination, regardless of whether an action was taken by RSPA before February 20, 2005, or by PHMSA after that date.

to the Fire Department Regulations Concerning Pickup/Delivery Transportation of Flammable and Combustible Liquids and Flammable and Combustible Gases, Waiver of Preemption Determination (WPD)–1, 57 FR 23278 (June 2, 1992), and asserts that the Department had “previously considered FDNY’s inspection and permitting program, and related fees, and determined that they were not preempted[.]” However, FDNY’s discussion of the past administrative action involving its hazardous materials inspection and permitting program does not accurately reflect the agency’s prior position on this issue. Therefore, as a preliminary matter, PHMSA believes it is important to review the significant actions taken by the agency in prior administrative proceedings involving the City’s hazardous materials inspection and permit requirements.

In Inconsistency Ruling (IR)–22, City of New York Regulations Governing Transportation of Hazardous Materials, 52 FR 46574 (December 8, 1987), Decision on Appeal, 54 FR 26698 (June 23, 1989), the agency addressed a preemption challenge to the City’s directives requiring tank truck carriers to receive permits before transporting hazardous materials in the city. In IR–22, the agency “found that the City created its own independent set of cargo containment, equipment and related requirements that overlap extensive HMR requirements, are likely to encourage noncompliance with the HMR, and concern subjects that [PHMSA] has determined are its exclusive province under the HMTA. Furthermore, [the agency] found that the City’s directives result in serious delays in the transportation of hazardous materials.” 54 FR at 26699. Because the City’s containment system and equipment requirements were found to be intimately tied to a permitting system, the agency “determined that the City’s permitting system for transportation of certain hazardous materials is inconsistent with the HMTA and the HMR, and, therefore, preempted.” *Id.*

The City appealed the IR–22 ruling, challenging the agency’s findings, and arguing that its permitting system does not cause delays. In the Decision on Appeal, PHMSA’s Administrator affirmed IR–22, upholding the preemption of the City’s permitting system. City of New York Regulations Governing Transportation of Hazardous Materials, Decision on Appeal, 54 FR 26698 (June 23, 1989). PHMSA, in affirming the finding that the permit system caused delay, said the City’s “burdensome permit application

requirements, its unfettered discretion in granting permits, and the time needed to process applications create delays in the transportation of hazardous materials.” Furthermore, the agency said “the delays caused by the City’s permit system are unnecessary because the City’s permit requirements are inconsistent with the HMTA.” 54 FR at 26705.

Subsequently, the City sought a waiver of preemption for many of the requirements found to be preempted in the IR–22 proceeding, including the permit requirements. WPD–1, City of New York Application for Waiver of Preemption as to the Fire Department Regulations Concerning Pickup/Delivery Transportation of Flammable and Combustible Liquids and Flammable and Combustible Gases, 57 FR 23278 (June 2, 1992). In WPD–1, PHMSA denied the City’s application for a waiver of preemption as to the design and construction requirements for trucks transporting flammable and combustible liquids; granted a waiver of preemption as to the requirements on emergency transfers and discharging gasoline by gravity into underground tanks; and dismissed the City’s application without prejudice for lack of information as to the requirements for transporting compressed gases. In addition, PHMSA found that the City’s “inspection and permit requirements (as general safety measures, separate from its equipment requirements) . . . are not preempted” and therefore, took no action with respect to those requirements. 57 FR at 23278. However, the agency was careful to note that its finding on this issue was a narrow one, limited by statutory requirements. Specifically, the agency initially said “[t]he permit requirements of the City are part of, and tied to, the City’s design and construction requirements which [PHMSA] found to be preempted by the HMTA. For that reason, the permit requirements were held [in IR–22] to be preempted as well.” 57 FR at 23294, referencing IR–22; 52 FR 46582. Thus, while PHMSA denied the request for a waiver of preemption as to the City’s permit requirements, the agency noted that the permit requirements, when considered separate and apart from the City’s design and construction requirements, might not be preempted by the HMTA, “provided that (1) the annual permit fee is ‘equitable’ and is ‘used for purposes related to the transportation of hazardous materials’” 57 FR at 23295.

The WPD–1 decision does not mandate a finding in favor of the City here, for two reasons. First, PHMSA was addressing arguments based on the

City’s design and construction requirements, and merely noted in the abstract that preemption might not apply to the City’s inspection and permit requirements, providing that other factors were met. The WPD–1 decision did not address the argument that ATA now presents in this proceeding specifically that the City’s inspection and permitting program requirements, and related fees, should be preempted because the program causes unnecessary delay and unreasonable cost. Second, PHMSA expressly noted that the City’s permit requirement could avoid being preempted only if the annual permit fee was “equitable” and “used for purposes related to the transportation of hazardous materials.” ATA contends that the City fails to meet these requirements.

C. Preemption Under Federal Hazardous Material Transportation Law

As discussed in the April 17, 2014 notice, 49 U.S.C. 5125 contains express preemption provisions relevant to this proceeding. 79 FR 21838, 21839–40.

Subsection (a) provides that a requirement of a State, political subdivision of a State, or Indian tribe is preempted—unless the non-Federal requirement is authorized by another Federal law or DOT grants a waiver of preemption under section 5125(e)—if:

(1) complying with a requirement of the State, political subdivision, or tribe and a requirement of this chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security is not possible; or

(2) the requirement of the State, political subdivision, or tribe, as applied or enforced, is an obstacle to accomplishing and carrying out this chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security.³

Subsection (b)(1) of 49 U.S.C. 5125 provides that a non-Federal requirement concerning any of the following subjects is preempted—unless authorized by

³ These two paragraphs set forth the “dual compliance” and “obstacle” criteria that are based on U.S. Supreme Court decisions on preemption. *Hines v. Davidowitz*, 312 U.S. 52 (1941); *Florida Lime & Avocado Growers, Inc. v. Paul*, 373 U.S. 132 (1963); *Ray v. Atlantic Richfield, Inc.*, 435 U.S. 151 (1978). PHMSA’s predecessor agency, the Research and Special Programs Administration, applied these criteria in issuing inconsistency rulings under the original preemption provisions in Section 112(a) of the Hazardous Materials Transportation Act (HMTA), Public Law 93–633, 88 Stat. 2161 (Jan. 3, 1975).

another Federal law or DOT grants a waiver of preemption—when the non-Federal requirement is not “substantively the same as” a provision of Federal hazardous material transportation law, a regulation prescribed under that law, or a hazardous materials security regulation or directive issued by the Department of Homeland Security:

(A) The designation, description, and classification of hazardous material.

(B) the packing, repacking, handling, labeling, marking, and placarding of hazardous material.

(C) the preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents.

(D) the written notification, recording, and reporting of the unintentional release in transportation of hazardous material and other written hazardous materials transportation incident reporting involving State or local emergency responders in the initial response to the incident.

(E) the designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce.⁴

In addition, 49 U.S.C. 5125(f)(1) provides that a State, political subdivision, or Indian tribe “may impose a fee related to transporting hazardous material only if the fee is fair and used for a purpose related to transporting hazardous material, including enforcement and planning, developing, and maintaining a capability for emergency response.”⁵

The preemption provisions in 49 U.S.C. 5125 reflect Congress’s long-standing view that a single body of uniform Federal regulations promotes safety (including security) in the transportation of hazardous materials. Some forty years ago, when considering the Hazardous Materials Transportation Act, the Senate Commerce Committee “endorse[d] the principle of preemption in order to preclude a multiplicity of State and local regulations and the potential for varying as well as conflicting regulations in the area of

hazardous materials transportation.” S. Rep. No. 1192, 93rd Cong. 2nd Sess. 37 (1974). A United States Court of Appeals has found uniformity was the “linchpin” in the design of the Federal laws governing the transportation of hazardous materials. *Colorado Pub. Util. Comm’n v. Harmon*, 951 F.2d 1571, 1575 (10th Cir. 1991).

Under 49 U.S.C. 5125(d)(1), any person (including a State, political subdivision of a State, or Indian tribe) directly affected by a requirement of a State, political subdivision or Indian tribe may apply to the Secretary of Transportation for a determination whether the requirement is preempted. The Secretary of Transportation has delegated authority to PHMSA to make determinations of preemption, except for those concerning highway routing (which have been delegated to the Federal Motor Carrier Safety Administration). 49 CFR 1.97(b).

Section 5125(d)(1) requires notice of an application for a preemption determination to be published in the **Federal Register**. Following the receipt and consideration of written comments, PHMSA publishes its determination in the **Federal Register**. See 49 CFR 107.209(c). A short period of time is allowed for filing of petitions for reconsideration. 49 CFR 107.211. A petition for judicial review of a final preemption determination must be filed in the United States Court of Appeals for the District of Columbia or in the Court of Appeals for the United States for the circuit in which the petitioner resides or has its principal place of business, within 60 days after the determination becomes final. 49 U.S.C. 5127(a).

Preemption determinations do not address issues of preemption arising under the Commerce Clause, the Fifth Amendment or other provisions of the Constitution, or statutes other than the Federal hazardous material transportation law unless it is necessary to do so in order to determine whether a requirement is authorized by another Federal law, or whether a fee is “fair” within the meaning of 49 U.S.C. 5125(f)(1). A State, local or Indian tribe requirement is not authorized by another Federal law merely because it is not preempted by another Federal statute. *Colorado Pub. Util. Comm’n v. Harmon*, above, 951 F.2d at 1581 n.10. In addition, PHMSA does not generally consider issues regarding the proper application or interpretation of a non-Federal regulation, but rather how such requirements are actually “applied or enforced.” Rather, “isolated instances of improper enforcement (e.g., misinterpretation of regulations) do not

render such provisions inconsistent” with Federal hazardous material transportation law, but are more appropriately addressed in the appropriate State or local forum. Preemption Determination (PD)–14(R), Houston, Texas, Fire Code Requirements on the Storage, Transportation, and Handling of Hazardous Materials, 63 FR 67506, 67510 n.4 (Dec. 7, 1998), decision on petition for reconsideration, 64 FR 33949 (June 24, 1999), quoting from IR–31, Louisiana Statutes and Regulations on Hazardous Materials Transportation, 55 FR 25572, 25584 (June 21, 1990), appeal dismissed as moot, 57 FR 41165 (Sept. 9, 1992), and PD–4(R), California Requirements Applicable to Cargo Tanks Transporting Flammable and Combustible Liquids, 58 FR 48940 (Sept. 20, 1993), decision on reconsideration, 60 FR 8800 (Feb. 15, 1995).

In making preemption determinations under 49 U.S.C. 5125(d), PHMSA is guided by the principles and policies set forth in Executive Order No. 13132, entitled “Federalism” (64 FR 43255 (Aug. 10, 1999)), and the President’s May 20, 2009 memorandum on “Preemption” (74 FR 24693 (May 22, 2009)). Section 4(a) of that Executive Order authorizes preemption of State laws only when a statute contains an express preemption provision, there is other clear evidence Congress intended to preempt State law, or the exercise of State authority directly conflicts with the exercise of Federal authority. The President’s May 20, 2009 memorandum sets forth the policy “that preemption of State law by executive departments and agencies should be undertaken only with full consideration of the legitimate prerogatives of the States and with a sufficient legal basis for preemption.” Section 5125 contains express preemption provisions, which PHMSA has implemented through its regulations.

II. Discussion

A. Inspection and Permit Requirement.

ATA argues that the FDNY permit and inspection requirements cause unnecessary delays because the process “delays drivers whose fastest route is through the city[.]”

FDNY believes its permit and inspection process is “lawful and proper, consistent with Federal law and regulations, promotes public safety . . . and does not unreasonably burden interstate commerce or motor carriers.”

According to FDNY, the permit process has been streamlined in recent years to provide for the immediate

⁴ To be “substantively the same,” the non-Federal requirement must conform “in every significant respect to the Federal requirement. Editorial and other similar *de minimis* changes are permitted.” 49 CFR 107.202(d).

⁵ See also 49 U.S.C. 5125(c) containing standards which apply to preemption of non-Federal requirements on highway routes over which hazardous materials may or may not be transported.

issuance of the permit, provided of course, that the vehicle passes the inspection. FDNY explains that a motor carrier can obtain a same day inspection by simply showing up at FDNY's Hazardous Cargo Unit (HCU). Or alternatively, the motor carrier can make arrangements to have its fleet inspected at its own facility. FDNY estimates the whole process takes approximately 30 minutes.

PHMSA has acknowledged that vehicle and container inspections are an "integral part of a program to assure the safe transportation of hazardous materials in compliance with the HMR." PD-28(R), Town of Smithtown, New York Ordinance on Transportation of Liquefied Petroleum Gas, 67 FR 15276, 15278 (Mar. 29, 2002).

Also, the agency has specifically found that inspections conducted by State or local governments to assure compliance with Federal or consistent requirements are themselves consistent with Federal hazardous material transportation law and not preempted. PD-28(R) at 15278; PD-4(R), California Requirements Applicable to Cargo Tanks Transporting Flammable and Combustible Liquids, 58 FR 48933, 48940 (Sept. 20, 1993), Decision on Petition for Reconsideration, 60 FR 8800 (Feb. 15, 1995), quoting IR-20, Triborough Bridge and Tunnel Authority Regulations, etc., 52 FR 24396, 24398 (June 30, 1987).

Accordingly, the agency "has encouraged States and local governments to adopt and enforce the requirements in the HMR 'through both periodic and roadside spot inspections.'" PD-28(R) at 15278, quoting PD-4(R), 58 FR at 48940 and PD-13(R), Nassau County, New York, Ordinance on Transportation of Liquefied Petroleum Gases, 63 FR 45283, 45286 (Aug. 25, 1998), Decision on Petition for Reconsideration, 65 FR 60238 (Oct. 10, 2000), quoting from WPD-1, New York City Fire Department Regulations, etc., 57 FR 23278, 23295 (June 2, 1992).

But to be consistent with the HMTA and the HMR, a non-Federal inspection of a vehicle or container used to transport a hazardous material must not conflict with the requirement in 49 CFR 177.800(d), which states:

All shipments of hazardous materials must be shipped without unnecessary delay, from and including the time of commencement of the loading of the hazardous material until its final unloading at destination.

In prior decisions, the agency has identified several principles regarding unnecessary delay that are relevant to this proceeding.

First, travel and wait times associated with an inspection are not generally considered unnecessary delays. PD-13(R), Decision on Petition for Reconsideration, 65 FR 60238, 60243 (Oct. 10, 2000); PD-4(R) at 48941. However, a delay of hours or days waiting for the arrival of an inspector from another location is unnecessary, because it substantially increases the time hazardous materials are in transportation, increasing exposure to the risks of the hazardous materials without corresponding benefit. PD-28(R) at 60243; PD-4(R) at 48941.

Second, a State's annual inspection requirement applied to vehicles that operate solely within the State is presumptively valid because it would not create the potential for delays associated with entering the State or being rerouted around the State. A carrier whose vehicles are based within the inspecting jurisdiction should be able to schedule an inspection at a time that does not disrupt or unnecessarily delay deliveries. 65 FR at 60243; 60 FR at 8803; PD-13(R) at 45286.

But, when applied to vehicles based outside of the inspecting jurisdiction, a State or local periodic inspection requirement has an inherent potential to cause unnecessary delays because the call and demand nature of common carriage makes it impossible to predict in advance which vehicles may be needed for a pick-up or delivery within a particular jurisdiction and impractical to have all vehicles inspected every year (or alternatively, inspection of select vehicles dedicated to the inspecting jurisdiction). PD-28(R) at 15279, referring to the discussion in PD-4(R) 58 FR at 48938-41, and PD-13(R), 65 FR 60242-44.

Last, a State or local government may apply an annual inspection requirement to trucks based outside its jurisdictional boundaries "only if the [State or local government] can actually conduct the equivalent of a 'spot' inspection upon the truck's arrival within the local jurisdiction. The [State or local government] may not require a permit or inspection for trucks that are not based within the local jurisdiction if the truck must interrupt its transportation of [hazardous materials] for several hours or longer in order for an inspection to be conducted and a permit to be issued." 65 FR at 60244.

Applying these principles to FDNY's permit and inspection program, it appears that the program would not cause unnecessary delays in the transportation of hazardous materials with respect to motor vehicles that are based within FDNY's jurisdiction. As noted in PD-13(R), motor carriers based

within the inspecting jurisdiction "should be able to present their trucks for an inspection . . . without incurring an unnecessary delay in the delivery of [hazardous materials]. They should be able to plan and schedule inspections without any interruption of deliveries." 65 FR at 60244. And on the few occasions where an inspection must be performed on short notice, it is reasonable to consider this an exception and simply a part of doing business, rather than an unreasonable delay under the HMR. Id.

However, with respect to motor vehicles that are based outside the inspecting jurisdiction, FDNY's process doesn't appear to be as flexible or accommodating as it portrays. For example, although FDNY says a same-day inspection at the HCU is possible, the unit is only open for operation, Monday through Friday, from 7:30 a.m. to 3:00 p.m. Since the permit and inspection program is not limited to one specific class of hazardous material, and considering that the HCU is only open weekdays until 3:00 p.m., an unpermitted motor carrier based outside FDNY's jurisdiction would have no recourse when it arrives to pick up or deliver hazardous materials in the City (requires a permit) and discovers that the HCU is closed. FDNY indicates that there is some flexibility in performing inspections, *i.e.*, a motor carrier can arrange for fleet inspections at its own facility, and that it has co-located FDNY inspection operations with other regulatory departments. But fleet inspections at a motor carrier's own facility appear to be impractical where the facility is located outside the City's jurisdiction. And, although co-locating the HCU with the City's other regulatory departments may be an operational convenience, it is not relevant to the issue here. More importantly, FDNY is silent on whether it is capable of performing a 'spot' inspection upon a motor carrier's arrival within its jurisdiction. Therefore, it does not appear that FDNY is able to conduct inspections and issue permits "on demand." As ATA pointed out, FDNY is "unable to apply the inspection and permitting process at the roadside[.]" and "FDNY's policy requires the truck to 'interrupt its transportation . . . for several hours' by traveling to the FDNY inspection site and being inspected before returning to productive service[.]" Comments of ATA at 5, quoting 67 FR at 15279. Although ATA did not specify that its members have actually experienced delays of this kind and duration, our prior determinations on this issue support the position that

when FDNY is confronted with the unannounced arrival of a motor carrier based outside its jurisdiction, it should be capable of conducting the equivalent of a spot or roadside inspection to avoid unnecessary delays. FDNY has not shown that its program has this flexibility.

PHMSA, for the reasons set forth above, finds that the HMTA does not preempt FDNY's permit and inspection requirements, FC 2707.4 and 105.6 (transportation of hazardous materials), with respect to motor vehicles that are based within the inspecting jurisdiction. On the other hand, PHMSA finds that FDNY's permit and inspection requirements create an obstacle to accomplishing and carrying out the HMR's prohibition against unnecessary delays in the transportation of hazardous materials on vehicles based outside of the inspecting jurisdiction. Accordingly, the HMTA preempts FDNY's permit and inspection requirements, FC 2707.4 and 105.6 (transportation of hazardous materials), with respect to trucks based outside the inspecting jurisdiction.

B. Permit Fee.

ATA challenges FDNY's transportation of hazardous materials permit fee on the grounds that it is not "fair" and that it is not being used for purposes that are related to the transportation of hazardous material. ATA also alleges that FDNY has not sufficiently accounted for the revenues generated by its "hazardous materials registration program." Nouveau echoed ATA's assertion that FDNY is not using the revenue generated from the fees for authorized purposes and contends that FDNY has not provided any evidence regarding the collection and use of the fees.

According to FDNY, permit revenues, like all revenues received by City agencies, are paid into a general City fund, with the amounts credited toward agency, bureau and unit operations. Over the past three years, annual revenue generated from the permit fees ranged from \$250,000 to \$450,000.⁶ FDNY claims it expends on an annual basis, "tens of millions of dollars" for its hazardous materials response operations, including staffing, training and equipping the HMU and other specialized units, but it provided no specific figures.

It is FDNY's position that its inspection and permitting program, and related fees, are not preempted because it believes the agency already addressed this issue, and found that the

requirements were not preempted. However, as discussed above in the prior administrative proceedings section, the WPD-1 language was conditioned on the City separating and severing the permit fee requirements from the preempted truck design and construction requirements. More importantly however, PHMSA expressly noted that the City's permit requirement could only avoid being preempted if the annual permit fee was "equitable" and "used for purposes related to the transportation of hazardous materials." Since that time, the City's current inspection and permitting (including fees) regulatory scheme has not been challenged on these issues. Therefore, FDNY's contention that its permit fees are valid based on the language in WPD-1 is not persuasive. The challenge to the validity of the permit fees as now raised in this proceeding, requires that PHMSA determine that the fees satisfy the statutory requirements.

The HMTA provides that "[a] State, political subdivision of a State, or Indian tribe may impose a fee related to transporting hazardous material only if the fee is fair and used for a purpose related to transporting hazardous material, including enforcement and planning, developing, and maintaining a capability for emergency response." 49 U.S.C. 5125(f)(1). In prior preemption determinations, PHMSA has utilized tests for determining whether a fee is "fair" and whether it is "used for a purpose related to transporting hazardous material."

1. The Fairness Test

PHMSA has determined that the test of reasonableness in *Evansville-Vanderburgh Airport Auth. v. Delta Airlines, Inc.* 405 U.S. 707, 92 S.Ct. 1349 (1972) "appears to be the most appropriate one for interpreting the fairness requirement in [the HMTA]." PD-21, Tennessee Hazardous Waste Transporter Fee and Reporting Requirements, 64 FR 54474, 54478 (October 6, 1999).⁷

In *Evansville-Vanderburgh*, the Supreme Court found that a state or local "toll" would pass constitutional muster "so long as the toll is based on some fair approximation of use or privilege for use . . . and is neither discriminatory against interstate commerce nor excessive in comparison with the governmental benefit

conferred[.]" 405 U.S. at 716-17, 92 S.Ct. at 1355. Following *Evansville-Vanderburgh*, the Court stated that "a levy is reasonable under *Evansville* if it (1) is based on some fair approximation of the use of the facilities, (2) is not excessive in relation to the benefits conferred, and (3) does not discriminate against interstate commerce." *Northwest Airlines, Inc. v. Kent*, 510 U.S. 355, 367-68, 114 S.Ct. 855, 864 (1994).

In PD-21, PHMSA evaluated Tennessee's requirement for hazardous waste transporters to pay an annual \$650 remedial action fee. In that matter, PHMSA observed that there was no evidence that Tennessee's annual fixed fee had any approximation to a transporter's use of roads or other facilities within the State or that there were genuine administrative burdens that prevented the application of a more finely graduated fee. *Id.* PHMSA thus concluded that the fee was not "fair" and was preempted.

In PD-18, Broward County, Florida's Requirements on the Transportation of Certain Hazardous Materials to or From Points in the County, 65 FR 81950 (December 27, 2000), Decision on Petition for Reconsideration, 67 FR 35193 (May 17, 2002), PHMSA preempted the County's licensing fee for hazardous waste transporters. In making its determination, the agency followed the fairness test discussed in Tennessee and emphasized that a fee discriminates against interstate commerce if there is a "lack of any relationship between the fees paid and the respective benefits received by interstate and intrastate carriers." PD-18 at 81959 (quoting PD-21). The agency went on to say that the case in Broward County was similar to the situation in Tennessee because the County "requires that any person transporting . . . waste 'to from, and within' the County must obtain a waste transporter license." PHMSA also noted that the fee for obtaining the waste transport license "apparently is the same for every transporter" without being based on some fair approximation of use of facilities, *i.e.*, roads or other facilities within the State. PD-18 at 81959.

Here, FDNY has acknowledged its permit fee is a flat fee applicable to motor carriers whether they are engaged in interstate or intrastate transportation of hazardous materials. Moreover, FDNY admitted that it does not maintain statistics as to whether motor carriers are engaged in interstate or intrastate commerce. Consequently, since there is no evidence showing that FDNY's flat fee is apportioned to a motor carrier based on some approximation of the benefit conferred

⁷ Complaint for judicial review, *Tennessee v. U.S. Dept. of Transportation*, C.A. No. 3-99-1126 (M.D. Tenn.), filed Dec. 3, 1999; order denying claim of state sovereignty (Feb. 27, 2001); affirmed and remanded, 326 F.3d 729 (6th Cir.); cert. denied, 124 S.Ct. 464 (2003); judgment in favor of DOT and AWHMT (June 28, 2004).

⁶ FY2013; FY2015 (July 1 through June 30).

to the permit holders, it discriminates against interstate commerce. Furthermore, there is no evidence that a more finely graduated fee would pose genuine administrative burdens on the City. PHMSA therefore finds that the FDNY's permit fee is not fair and is preempted.

2. The "Used For" Test

Under the HMTA, a State, political subdivision of a State, or Indian tribe may impose a fee related to transporting hazardous material, but only if the fee is used for a purpose related to transporting hazardous material, including enforcement and planning, developing, and maintaining a capability for emergency response. 49 U.S.C. 5125(f)(1). Therefore, non-Federal fees that are collected in relation to the transportation of hazardous materials must be used for a related purpose; otherwise they are preempted. PD-22, New Mexico Requirements for the Transportation of Liquefied Petroleum Gas, 67 FR 59386 (Sept. 20, 2002); PD-18 at 81959; PD-21 at 54479.

In prior preemption determinations, PHMSA has acknowledged that a State, political subdivision of a State, or Indian tribe does not have to create and maintain a separate account for fees related to the transportation of hazardous materials. However, "[i]f the [non-Federal entity] prefers not to create and maintain a separate fund for fees paid . . . then it must show that it is actually spending these fees on the purposes permitted by the law. In this area where only the [non-Federal entity] has the information concerning where these funds are spent, more specific accounting is required." PD-21 at 54479.

FDNY acknowledged that the revenue it receives through its permit program is put into a general City fund; which is permissible, provided it can show the funds are used for purposes related to the transportation of hazardous materials. FDNY believes that the revenue is used for permitted purposes because it contributes to the cost of staffing, training, and equipping its HCU. However, FDNY also indicated that the inspection fee largely covers the cost of the inspection and the administrative processing of the permit. Here, apart from general statements about how the revenue is used, FDNY does not provide specific figures. FDNY's failure to provide definitive information on the allocation of permit revenues is not sufficient to refute ATA's direct challenge of the permit fee on the grounds that FDNY has not sufficiently accounted for revenues

generated by its hazardous materials registration program. Therefore, without any evidence from FDNY on how it uses the permit fees that it collects, PHMSA cannot find that the fees are used for purposes related to hazardous materials transportation, and thus, FDNY's permit fee is preempted under the "used for" test.

III. Ruling

Inspection and Permit Requirement—PHMSA finds that FDNY's permit and inspection requirements, FC 2707.4 and 105.6 (transportation of hazardous materials), create an obstacle to accomplishing and carrying out the HMR's prohibition against unnecessary delays in the transportation of hazardous materials on vehicles based outside of the inspecting jurisdiction. Accordingly, the HMTA preempts FDNY's permit and inspection requirements with respect to vehicles based outside the inspecting jurisdiction. PHMSA, however, finds that the HMTA does not preempt FDNY's permit and inspection requirements with respect to motor vehicles that are based within the inspecting jurisdiction.

Permit Fee—PHMSA finds that FDNY has not shown that the fee it imposes with respect to its permit and inspection requirements is "fair" or "used for a purpose related to transporting hazardous material," as required by 49 U.S.C. 5125(f)(1). Accordingly, the HMTA preempts FDNY's permit fee requirement.

IV. Petition for Reconsideration/Judicial Review

In accordance with 49 CFR 107.211(a), any person aggrieved by this decision may file a petition for reconsideration within 20 days of publication of this decision in the **Federal Register**. A petition for judicial review of a final preemption determination must be filed in the United States Court of Appeals for the District of Columbia or in the Court of Appeals for the United States for the circuit in which the petitioner resides or has its principal place of business, within 60 days after the determination becomes final. 49 U.S.C. 5127(a).

This decision will become PHMSA's final decision 20 days after publication in the **Federal Register** if no petition for reconsideration is filed within that time. The filing of a petition for reconsideration is not a prerequisite to seeking judicial review of this decision under 49 U.S.C. 5127(a).

If a petition for reconsideration is filed within 20 days of publication in the **Federal Register**, the action by

PHMSA's Chief Counsel on the petition for reconsideration will be PHMSA's final action. 49 CFR 107.211(d).

Issued in Washington, DC, on June 29, 2017.

Vasiliki Tsaganos,
Acting Chief Counsel.

[FR Doc. 2017-14147 Filed 7-5-17; 8:45 am]

BILLING CODE 4910-60-P

DEPARTMENT OF THE TREASURY

Promoting Energy Independence and Economic Growth; Request for Information

AGENCY: Department of the Treasury.

ACTION: Request for information.

SUMMARY: Through this request for information, the Department of the Treasury is soliciting input from the public on implementation and compliance with Executive Order 13783, Promoting Energy Independence and Economic Growth.

DATES: *Comment due date:* July 14, 2017.

ADDRESSES: Interested persons are invited to submit comments in response to this notice according to the instructions below. All submissions must refer to the document title. Treasury encourages the early submission of comments.

Electronic Submission of Comments. Interested persons must submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt, and enables the Department to make comments available to the public. Comments submitted electronically through the <http://www.regulations.gov> Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Public Inspection of Comments. In general, all properly submitted comments will be available for inspection and downloading at <http://www.regulations.gov>.

Additional Instructions. In general, comments received, including attachments and other supporting materials, are part of the public record and are made available to the public. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT:

Heidi Cohen, Office of the General Counsel at 202-622-1142.

SUPPLEMENTARY INFORMATION: Executive Order 13783, published on March 28, 2017, states that it is in the national interest to promote clean and safe development of energy resources, while at the same time avoiding regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation. Section 2 of the Order requires the head of each executive department and agency to review all of the agency's existing regulations, orders, guidance documents, policies, and any other similar agency actions that potentially burden the development or use of

domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear energy resources.

The Department of the Treasury, pursuant to Executive Order 13783, is undertaking a review of its regulatory, subregulatory, and other policy documents that could potentially burden the safe, efficient development of domestic energy resources. To assist in this effort, the Department invites members of the public to submit views or recommendations on those items, including regulations, forms, policies, orders, and related documents, the removal or modification of which could reduce burdens as outlined in the Executive Order. Comments should include specific references to form

numbers, citations, or other identifiers and should include a description of the burden imposed and how it could best be addressed (*e.g.*, through repeal, modification, streamlining efforts, regulatory flexibilities, etc.).

The Department advises that this notice and request for comments is issued for information and policy development purposes. Although the Department encourages responses to this notice, such comments do not bind the Department to take any further actions related to the submission.

Dated: June 27, 2017.

Brian Callanan,
Acting General Counsel.

[FR Doc. 2017-14100 Filed 7-5-17; 8:45 am]

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Part II

Department of Commerce

National Oceanic and Atmospheric Administration

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Sand Point City Dock Replacement Project in Sand Point, Alaska; Notice

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

RIN 0648–XF370

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Sand Point City Dock Replacement Project in Sand Point, Alaska

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received an application from the Alaska Department of Transportation and Public Facilities (ADOT&PF) for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to Sand Point City Dock Replacement Project in Sand Point, Alaska. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to ADOT&PF to incidentally take marine mammals during the specified activities.

DATES: Comments and information must be received no later than August 7, 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/construction.htm without change. All personal identifying information (*e.g.*, name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Rob 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/construction.htm. In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:**Background**

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

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

The MMPA states that the term “take” means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969

(NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review the 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.

Summary of Request

On September 16, 2016, NMFS received an application from ADOT&PF for the taking of marine mammals incidental to replacing the city dock in Sand Point, Alaska. On April 11, 2017, ADOT&PF submitted a revised application that NMFS determined was adequate and complete. ADOT&PF proposes to conduct in-water activities that may incidentally take, by Level A and Level B harassment, marine mammals. Proposed activities included as part of the Sand Point City Dock Replacement Project with potential to affect marine mammals include impact hammer pile driving and vibratory pile driving and removal. This IHA would be valid from August 1, 2018 through July 31, 2019.

Species with the expected potential to be present during the project timeframe include harbor seal (*Phoca vitulina*), Steller sea lion (*Eumetopias jubatus*), harbor porpoise (*Phocoena phocoena*), Dall’s porpoise (*Phocoenoides dalli*), killer whale (*Orcinus orca*), humpback whale (*Megaptera novaeangliae*), fin whale (*Balaenoptera physalus*), gray whale (*Eschrichtius robustus*), and minke whale (*Balaenoptera acutorostrata*).

Description of Specified Activities**Overview**

ADOT&PF proposes to construct a new dock in Sand Point, Alaska. The existing city dock was built in 1984 and is in need of replacement, as it is nearing the end of its operational life due to corrosion and wear. The dock receives barge service from Seattle weekly throughout the year. The dock also regularly handles processed seafood. Given the lack of road access to Sand Point, the city dock is an essential component of infrastructure providing

critical access between Sand Point and the Pacific Northwest region.

Impact and vibratory driving of piles and vibratory pile removal is expected to take place over a total of approximately 32 working days within a 5-month window from August 1, 2018 through December 31, 2018. However, due to the potential for unexpected delays, up to 40 working days may be required. ADOT&PF is asking for the proposed IHA to be valid for a period of one year. The new dock would be supported by approximately 52 round,

30-inch-diameter, 100-foot-long permanent steel pipe piles. Fender piles installed at the dock face would be 8 round, 24-inch-diameter, 80-foot-long permanent steel pipe piles. The single mooring dolphin would consist of 3 round, 24-inch-diameter, 120-foot-long permanent battered steel pipe piles. This equates to a total of 63 permanent piles. Up to 90 temporary piles would be installed and removed during construction of the dock and would be either H-piles or pipe piles with a diameter of less than 24 inches.

Dates and Duration

In-water pile driving and extraction activities are expected to take place over a total of approximately 32 working days within a 5-month window from August 1, 2018 through December 31, 2018. ADOT&PF has requested that the proposed IHA be valid for a period of one year in case there are delays. Table 1 illustrates the anticipated number of days required for installation and removal of various pile types. Pile driving and removal may occur for up to 4.5 hours per day.

TABLE 1—ESTIMATED NUMBER OF DAYS REQUIRED FOR PILE INSTALLATION AND REMOVAL

Activity	Number of piles	Days required
Support pile installation	52	13
Temporary pile installation and removal	90	15
Dolphin pile installation	3	2
Fender pile installation	8	2
Total Days .....	.....	32
Total Days with 25 percent contingency .....	.....	40

Specified Geographic Region

The Sand Point city dock is located in the city of Sand Point, Alaska, on the northwest side of Popof Island, in the western Gulf of Alaska. Sand Point is part of the Aleutians East Borough and is located approximately 10 miles (16 kilometers) south of the Alaska Peninsula. Popof Island is one of the Shumagin Islands in the western Gulf of Alaska and is approximately 16 kilometers (10 miles) long, 8 kilometers (5 miles) wide, and covers 93.7 square kilometers (36.2 square miles). It is located immediately east of the much larger Unga Island, and Popof Strait separates the two islands. The City of Sand Point is the largest community in the Shumagin Islands. See Figure 1–1 in ADOT&PF’s Application.

The Sand Point city dock is located in Humboldt Harbor, on the southwest side of the city of Sand Point. The existing dock is located on the causeway of Sand Point’s “New Harbor” at the end of Boat Harbor Road, and the proposed replacement dock is proposed to be located immediately adjacent to (southwest of) the existing city dock along the causeway, which also serves as the breakwater for the New Harbor. See Figure 1–2 in ADOT&PF’s Application.

Detailed Description of Specified Activity

The proposed action includes pile installation and removal of the new city dock and the deposition of shot rock fill adjacent to the existing causeway (See

Figure 5–1 in Application). New shot rock fill would be placed on the seaward side of the existing causeway to support dock construction and create an additional upland area for safe passenger staging and maneuvering of equipment. Pile installation and removal activities will potentially result in take of marine mammals. There is no mapped high tide line at Sand Point, and, therefore, engineers will use Mean Higher High Water (MHHW) to determine the placement of fill. This fill would be placed above and below MHHW to increase the causeway’s areal extent and would be stabilized through the use of new and salvaged armor rock protection. Approximately 38,600 square feet of fill and 28,500 square feet of armor rock would be required for breakwater expansion. Shot rock fill deposition activities are not expected to generate underwater sound at levels that would result in Level A or Level B harassment. Therefore, this specific activity will not result in take of marine mammal and will not be discussed further.

Following deposition of fill and prior to placement of armor rock, round steel piles would be installed to support the new city dock foundation and mooring dolphins. As noted previously, the proposed project will require installation of 30-inch and 24-inch, permanent steel piles. This equates to a total of 63 permanent piles as shown in Table 2 below. It is anticipated that an ICE 44B or APE 200–6 model vibratory driver or equivalent and a Delmag D62

diesel impact hammer or equivalent would be used to install the piles. Project design engineers anticipate an impact strike rate of approximately 40 strikes per minute, based on substrate density, pile types, and hammer type, which equates to approximately 1,000 strikes for each 30-inch dock support pile, 400 strikes for each dolphin pile, and 120 strikes for each fender pile.

Permanent dock support piles would be installed using both vibratory and impact hammers; both methods of installation typically occur within the same day. Permanent piles are first installed with a vibratory hammer for approximately 45 minutes to insert the pile through the overburden sediment layer and into the bearing layer. The vibratory hammer is then replaced with the impact hammer, which is used to install the pile for the last 15 to 20 feet (approximately 25 minutes). Up to four permanent piles would be installed per day, for a total of 180 minutes of vibratory and 100 minutes of impact installation per day. Installation of permanent piles would require about 13 days of effort (52 permanent piles/4 permanent piles per day = 13 days).

Installation of the eight fender piles is anticipated to occur over 2 days (after installation of all dock support piles), at a production rate of four fender piles per day (8 fender piles/4 fender piles per day = 2 days). Each fender pile would require 30 minutes of vibratory installation and 3 minutes of impact installation, for a total of 120 minutes of vibratory and 12 minutes of impact

installation each day. No temporary piles would be required for fender pile installation because they would be installed along the completed dock face.

Installation of three 24-inch permanent battered pipe piles for the dolphin would also require the installation and removal of four temporary piles (either <24 inch diameter or H-piles) to support the template. Installation of the dolphin piles will occur over 2 days, with one or two dolphin piles installed per day for a total of 3 dolphin piles. Thirty minutes of vibratory installation and 10 minutes of impact installation are anticipated per permanent dolphin pile, for a total of no more than 60 minutes of vibratory installation and 20 minutes of impact installation per day. Installation and removal of the temporary piles for the dolphin are included in the calculations for temporary piles above.

Two or more temporary piles would be used to support a template to facilitate installation of two to four permanent dock support piles. Template

configuration, including the number of permanent piles that could be installed at once and the number of temporary piles required to support the template, would be determined by the contractor. Four additional temporary piles would support the template for the dolphin. In all, up to 90 temporary piles would be installed and removed during construction of the dock and dolphin. Temporary piles would be either H-piles or pipe piles with a diameter of less than 24 inches.

Temporary piles would be installed and removed during construction of the dock by vibratory methods only. Removal and installation of the temporary piles that support the template typically occur within the same day, with additional time required for installation of the template structure, which would include welding, surveying the location, and other activities. Each temporary pile would be installed in approximately 15 minutes and removed in approximately 15 minutes. Up to six temporary piles would be installed and removed per

day, for a total of up to 180 minutes of vibratory installation and removal per day. Installation of temporary piles, including those required to support construction of the dolphin, would require about 15 total days of effort (90 temporary piles/6 temporary piles per day = 15 days).

Total driving time for the proposed project would consist of approximately 22 hours of impact driving and 85 hours of vibratory driving and removal.

Following initial pile installation of permanent dock support piles, the mud accumulation on the inside of each pile would be augered out and the piles filled with concrete to provide additional moment capacity and corrosion resistance. An auger with a crane-mounted rotary head would be used for pile clearing. These activities are not anticipated to result in underwater sound levels that would meet Level A or Level B harassment criteria and, therefore, will not be discussed further.

TABLE 2—PILE DETAILS AND ESTIMATED EFFORT REQUIRED FOR PILE INSTALLATION

Pile type	Diameter	Number of piles	Maximum piles per day	Hours per day	Estimated minutes per pile	Anticipated days of effort ¹
Vibratory Installation or Removal						
Permanent support pile	30"	52	4	3	45	13
Permanent dolphin pile	24"	3	2	1	30	2
Permanent fender pile	24"	8	4	2	30	2
Installation, temporary support pile ...	<24" or H-pile	90	6	1.5	15	15
Removal, temporary support pile	<24" or H-pile	90	6	1.5	15	15
Impact Installation						
Permanent support pile	30"	52	4	1.667	25	13
Permanent dolphin pile	24"	3	2	0.33	10	2
Permanent fender pile	24"	8	4	0.20	3	2

¹ Vibratory and impact driving of each permanent pile will occur on the same day. Installation and removal of each temporary piles will occur on the same day.

Proposed mitigation, monitoring, and reporting measures are described in detail later in the document (Mitigation section and Monitoring and Reporting section).

Description of Marine Mammals in the Area of Specified Activities

We have reviewed the applicants' species information—which summarizes available information regarding status and trends, distribution and habitat preferences, behavior and life history, and auditory capabilities 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 3 lists all species with expected potential for occurrence in Sand Point 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. Species that could potentially occur in the proposed survey areas but are not expected to have reasonable potential to be harassed by pile driving and removal activities are described briefly but omitted from further analysis. These include extralimital species, which are species that do not normally occur in a given area but for which there are one

or more occurrence records that are considered beyond the normal range of the species. For status of species, we provide information regarding U.S. regulatory status under the MMPA and ESA.

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.

The marine waters of the Shumagin Islands support many species of marine mammals, including pinnipeds and cetaceans; however, the number of species regularly occurring near the project area is limited (Table 3). Steller sea lions are the most common marine mammals in the project area, and are

part of the western Distinct Population Segment (wDPS), which is listed as endangered under the ESA. Humpback whales, including the ESA-listed Western North Pacific DPS (endangered) and Mexico DPS (threatened), as well as ESA-listed fin whales (endangered), may occur in the project area, but far less frequently and in lower abundance than Steller sea lions. Harbor seals and harbor porpoises may be observed in the project area. Gray whales, minke whales, killer whales, and Dall's porpoises also have the potential to occur in or near the project area, although in limited numbers.

North Pacific right whales (*Eubalaena japonica*) are very rare in general and extremely unlikely to occur within the project area. Other animals whose range overlaps with the project area include the northern fur seal (*Callorhinus ursinus*), ribbon seal (*Histiophoca fasciata*), spotted seal (*Phoca largha*),

and Pacific white-sided dolphin (*Lagenorhynchus obliquidens*). However, occurrences of these species have not been reported locally and take is not anticipated or proposed. The ranges of sperm whales (*Physeter macrocephalus*) and Cuvier's beaked whales (*Ziphius cavirostris*) include the Shumagin Islands. However, these species generally inhabit deep waters and would be unlikely to occur in the relatively shallow waters of Popof Strait. Therefore, take is not proposed for either of these species. The species listed in this paragraph will not be discussed further.

All values presented in Table 3 are the most recent available at the time of publication and are available in the 2015 SARs (Muto *et al.*, 2016) and draft 2016 SARs (Muto *et al.*, 2016b) available online at: www.nmfs.noaa.gov/pr/sars/draft.htm.

TABLE 3—MARINE MAMMAL SPECIES POTENTIALLY PRESENT IN THE PROJECT AREA

Species	Stock	ESA/MMPA status; strategic (Y/N) ¹	Stock abundance (CV, N _{min} , most recent abundance survey) ²	PBR ³	Annual M/SI ⁴	Relative occurrence near Sand Point
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Phocoenidae (porpoises)						
Dall's porpoise	Alaska	-; N	83,400 (0.097; n/a; 1993)	Undet ...	38	Rare.
Harbor porpoise	Gulf of Alaska	-; Y	25,987 (0.214; n/a; 1998)	Undet ...	72	Common.
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae (dolphins)						
Killer whale	Eastern North Pacific Alaska Resident.	-; N	2,347 (n/a; 2,347; 2012)	24	1	Uncommon.
	Eastern North Pacific Gulf of AK, Aleutian Islands, and Bering Sea Transient.	-; N	587 (n/a; 587; 2012)	5.9	1	Uncommon.
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Balaenopteridae						
Humpback whale	Central North Pacific	n/a Y	10,103 (0.300; 7,890; 2006)	83	24	Uncommon.
	Western North Pacific	n/a ⁵ ; Y	1,107 (0.300; 865; 2006)	3	2.6	Uncommon.
Fin whale	Northeast Pacific	E/D; Y	1,368 (n/a, 1,036; 2010)	2.1	0.6	Rare.
Minke whale	Alaska	-; N	.....	.....	0	Rare.
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Eschrichtiidae						
Gray whale	Eastern North Pacific	-; N	20,990 (0.05; 20,125; 2011)	624	132	Rare.
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions)						
Steller sea lion	wDPS	E/D; S	50,983 (n/a; 50,983; 2015) ..	306	236	Very common.

TABLE 3—MARINE MAMMAL SPECIES POTENTIALLY PRESENT IN THE PROJECT AREA—Continued

Species	Stock	ESA/MMPA status; strategic (Y/N) ¹	Stock abundance (CV, N _{min} , most recent abundance survey) ²	PBR ³	Annual M/SI ⁴	Relative occurrence near Sand Point
Family Phocidae (earless seals)						
Harbor seal	(Cook Inlet/Shelikof Strait	-; N	27,386 (n/a; 25,651, 2011) ..	770	234	Occasional.

¹ Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

² 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).

⁴ These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

⁵ The newly defined DPSs do not currently align with the stocks defined under the MMPA.

Cetaceans

Dall's Porpoise

Dall's porpoises are found throughout the North Pacific, from southern Japan to southern California north to the Bering Sea. All Dall's porpoises found in Alaska are members of the Alaska stock. This species can be found in offshore, inshore, and nearshore habitat, but prefer waters more than 180 meters (600 feet) deep (Jefferson 2009).

Dall's porpoises, like all marine mammals, are protected under the MMPA, but they are not listed under the ESA. Insufficient data are available to estimate current population trends, but the species is considered reasonably abundant. The current population estimate for the species is 1.2 million, and the Alaska stock was last estimated at 83,400 individuals in 1993 (Muto *et al.*, 2016a).

There currently is no information on the presence or abundance of Dall's porpoises in the Shumagin Islands. No sightings of Dall's porpoises have been documented in Humboldt Harbor and they are not expected to occur there, although they may occur in deeper waters farther offshore (HDR 2017).

Dall's porpoises generally occur in groups of 2 to 20 individuals, but have also been recorded in groups numbering in the hundreds. In Alaska, the average group size ranges from 2.7 to 3.7 individuals (Wade *et al.*, 2003). They are commonly observed bowriding vessels or large cetaceans. Common prey includes a variety of small schooling fishes (such as herrings, anchovies, mackerels, and sauries) and cephalopods. Dall's porpoises may migrate between inshore and offshore areas, make latitudinal movements, or make short seasonal migrations, but

these movements are generally not consistent (Jefferson 2009).

Harbor Porpoise

In the eastern North Pacific Ocean, the harbor porpoise ranges from Point Barrow, along the Alaska coast, and down the west coast of North America to Point Conception, California. Harbor porpoises frequent primarily coastal waters in the Gulf of Alaska and Southeast Alaska (Dahlheim *et al.*, 2000), and occur most frequently in waters less than 100 meters (328 feet) deep (Hobbs and Waite 2010). The Gulf of Alaska stock ranges from Cape Suckling to Unimak Pass (Muto *et al.*, 2016a).

In Alaska, harbor porpoises are currently divided into three stocks, based primarily on geography: the Bering Sea stock, the Southeast Alaska stock, and the Gulf of Alaska stock. In areas outside Alaska, studies have shown that stock structure is more finely scaled than is reflected in the Alaska Stock Assessment Reports. However, no data are yet available to define stock structure for harbor porpoises on a finer scale in Alaska (Allen and Angliss 2014). Only the Gulf of Alaska stock is considered in this application because the other stocks occur outside the geographic area under consideration.

Harbor porpoises are neither designated as depleted under the MMPA nor listed as threatened or endangered under the ESA. Because the most recent abundance estimate is more than eight years old and information on incidental harbor porpoise mortality in commercial fisheries is not well understood, the Gulf of Alaska stock of harbor porpoises is classified as strategic. Population trends and status

of this stock relative to optimum sustainable population size are currently unknown.

The number of harbor porpoises in the Gulf of Alaska stock was assessed in 1998 at 31,046. The current minimum population estimate for harbor porpoises in the Gulf of Alaska, calculated using the potential biological removal guidelines, is 25,987 individuals (Muto *et al.*, 2016b). No reliable information is available to determine trends in abundance.

Survey data for the Shumagin Islands are not available. Anecdotal observations indicate that harbor porpoises are uncommon in Humboldt Harbor proper but may occur in nearby waters (HDR 2017).

Harbor porpoises forage in waters less than 200 meters (656 feet) to bottom depth on small pelagic schooling fish such as herring, cod, pollock, octopus, smelt, and bottom-dwelling fish, occasionally feeding on squid and crustaceans (Bjørge and Tolley 2009; Wynne *et al.*, 2011).

Killer Whale

Killer whales have been observed in all the world's oceans, but the highest densities occur in colder and more productive waters found at high latitudes (NMFS 2016a). Killer whales occur along the entire Alaska coast, in British Columbia and Washington inland waterways, and along the outer coasts of Washington, Oregon, and California (NMFS 2016a). Based on data regarding association patterns, acoustics, movements, and genetic differences, eight killer whale stocks are now recognized within the Pacific U.S. Exclusive Economic Zone, seven of which occur in Alaska: (1) The Alaska resident stock; (2) the Northern resident

stock; (3) the Southern resident stock; (4) the Gulf of Alaska, Aleutian Islands, and Bering Sea transient stock; (5) the AT1 transient stock; (6) the West Coast transient stock, occurring from California through southeastern Alaska; and (7) the Offshore stock (Muto *et al.*, 2016a). Only the Alaska resident stock and the Gulf of Alaska, Aleutian Islands, and Bering Sea transient stock are considered in this application because other stocks occur outside the geographic area under consideration. Neither of these stocks of killer whales is designated as depleted or strategic under the MMPA or listed as threatened or endangered under the ESA.

The Alaska resident stock occurs from southeastern Alaska to the Aleutian Islands and Bering Sea. The transient stock occurs primarily from Prince William Sound through the Aleutian Islands and Bering Sea.

The abundance of the Alaska resident stock of killer whales is currently estimated at 2,347 individuals, and the Gulf of Alaska, Aleutian Islands, and Bering Sea transient stock is estimated at 587 individuals. The Gulf of Alaska component of the transient stock is estimated to include 136 of the 587 individuals (Muto *et al.*, 2016a). The abundance of the Alaska resident stock is likely underestimated because researchers continue to encounter new whales in the Gulf of Alaska and western Alaska waters. At present, reliable data on trends in population abundance for both stocks are unavailable.

Line transect surveys conducted in the Shumagin Islands between 2001 and 2003 did not record any resident killer whales, but did record a relatively high abundance of transient killer whales (Zerbini *et al.*, 2007). The population trend of the transient stock of killer whales in Alaska has remained stable since the 1980s (Muto *et al.*, 2016b). Anecdotal observations indicate that killer whales are not often seen in the vicinity of Sand Point, including Popof Strait (HDR 2017).

Distinct ecotypes of killer whales include transients that hunt and feed primarily on marine mammals and residents that forage primarily on fish. Transient killer whales feed primarily on harbor seals, Dall's porpoises, harbor porpoises, and sea lions. Resident killer whale populations in the eastern North Pacific feed mainly on salmonids, showing a strong preference for Chinook salmon (Muto *et al.*, 2016b).

Transient whales are often found in long-term stable social units (pods) of fewer than 10 whales, which are generally smaller than resident social groups. Resident-type killer whales

occur in larger pods of whales that are seen in association with one another more than 50 percent of the time (Muto *et al.*, 2016b).

Humpback Whale

There are five stocks of humpback whales defined under the MMPA, two of which occur in Alaska: The Central North Pacific Stock, which consists of winter/spring populations in the Hawaiian Islands which migrate primarily to northern British Columbia/Southeast Alaska, the Gulf of Alaska, and the Bering Sea/Aleutian Islands; and the Western North Pacific stock, which consists of winter/spring populations off Asia which migrate primarily to Russia and the Bering Sea/Aleutian Islands (Muto *et al.*, 2016b). The Western North Pacific stock is found in coastal and inland waters around the Pacific Rim from Point Conception, California, north to the Gulf of Alaska and the Bering Sea, and west along the Aleutian Islands to the Kamchatka Peninsula and into the Sea of Okhotsk and north of the Bering Strait, which are historical feeding grounds (Muto *et al.*, 2016b). Information from a variety of sources indicates that humpback whales from the Western and Central North Pacific stocks mix to a limited extent on summer feeding grounds ranging from British Columbia through the central Gulf of Alaska and up to the Bering Sea (Muto *et al.*, 2016).

Humpback whales worldwide were designated as "endangered" under the Endangered Species Conservation Act in 1970, and were listed under the ESA from its inception in 1973 until 2016. On September 8, 2016, NMFS published a final decision which changed the status of humpback whales under the ESA (81 FR 62259), effective October 11, 2016. The decision recognized the existence of 14 DPSs based on distinct breeding areas in tropical and temperate waters. Five of the 14 DPSs were classified under the ESA (4 endangered and 1 threatened), while the other 9 DPSs were delisted. Humpback whales found in the Shumagin Islands are predominantly members of the Hawaii DPS, which are not listed under the ESA. However, based on a comprehensive photo-identification study, members of both the Western North Pacific DPS (ESA-listed as endangered) and Mexico DPS (ESA-listed as threatened) are known to occur in the Gulf of Alaska and Aleutian Islands. Members of different DPSs are known to intermix on feeding grounds; therefore, all waters off the coast of Alaska should be considered to have ESA-listed humpback whales.

According to Wade *et al.* (2016), there is a 0.5 percent (CV [coefficient of variation]=0.001) probability that a humpback whale observed in the Gulf of Alaska is from the Western North Pacific DPS. The probability of a humpback whale being from the Mexico DPS is 10.5 percent (CV=0.16). The remaining 89 percent (CV=0.01) of individuals in the Gulf of Alaska are likely members of the Hawaii DPS (Wade *et al.*, 2016).

The current abundance estimate for humpback whales in the Pacific Ocean is approximately 16,132 individuals. The Hawaii DPS is the largest stock, with approximately 11,398 individuals (95 percent confidence interval [CI]: 10,503–12,370), followed by the Mexico DPS (3,264 individuals [95 percent CI: 2,912–3,659]) and the Western North Pacific DPS (1,059 individuals [95 percent CI: 898–1,249]). Summer abundance of humpback whales in the Gulf of Alaska, from all DPSs, is estimated at 2,089 individuals (95 percent CI: 1,755–2,487; Wade *et al.*, 2016). Critical habitat has not been designated for any humpback whale DPS.

Surveys from 2001 to 2004 estimated humpback whale abundance in the Shumagin Islands at between 410 and 593 individuals during the summer feeding season (July–August; Witteveen *et al.*, 2004; Zerbini *et al.*, 2006). Annual vessel-based, photo-identification surveys in the Shumagin Islands from 1999 to 2015 identified 654 unique individual humpback whales between June and September (Witteveen and Wynne 2016). Humpback whale abundance in the Shumagin Islands increased 6 percent per year between 1987 and 2003 (Zerbini *et al.*, 2006). Humpback whales are occasionally observed in Popof Strait between Popof Island and Unga Island (HDR 2017) and are known to feed in the waters west of the airport (HDR 2017). They are unlikely to occur in the shallow waters of Humboldt Harbor proper (HDR 2017) but may occur in Popof Strait in waters ensonified by pile driving and removal activities. Humpbacks are found in the Shumagin Islands from April or May through October or November, and peak feeding activity occurs between June and early September.

Large aggregations of humpback whales spend the summer and fall in the nearshore areas of the Alaska Peninsula, Gulf of Alaska, and Aleutian Islands. The waters of the western Gulf of Alaska support feeding populations of humpback whales (HDR 2017). The Shumagin Islands are considered a biologically important area for feeding

humpback whales in July and August (Ferguson *et al.*, 2015).

Fin Whale

Four stocks of fin whales occur in U.S. waters: (1) Alaska (Northeast Pacific), (2) California/Washington/Oregon, (3) Hawaii, and (4) western North Atlantic (Aguilar 2009; Muto *et al.*, 2016). Fin whales in the Shumagin Islands are from the Alaska (Northeast Pacific) stock (Muto *et al.*, 2016z).

Fin whales were designated as "endangered" under the Endangered Species Conservation Act in 1970, and have been listed under the ESA since its inception in 1973. There are no reliable estimates of current or historic abundance for the entire North Pacific population of fin whales. Surveys in the Bering Sea, Aleutian Islands, and Gulf of Alaska estimated 5,700 whales. The population in this region is thought to be increasing at approximately 3.6 percent per year, but there is a high degree of variability in this estimate (Zerbini *et al.*, 2006). Critical habitat has not been designated for the fin whale.

Vessel-based line-transect surveys of coastal waters between Resurrection Bay and the central Aleutian Islands were completed in July and August from 2001 to 2003. Large concentrations of fin whales were found in the Semidi Islands, located midway between the Shumagin Islands and Kodiak Island just south of the Alaska Peninsula. The abundance of fin whales in the Shumagin Islands ranged from a low estimate of 604 in 2003 to a high estimate of 1,113 in 2002. Fin whales are uncommon in Humboldt Harbor or Popof Strait (HDR 2017).

Fin whales are found in deep offshore waters as well as in shallow nearshore areas. Their migratory movements are complex and their abundance can fluctuate seasonally. Fin whales often congregate in groups of two to seven whales or in larger groups of other whale species, including humpback and minke whales (Muto *et al.*, 2016a). Fin whales feed on a wide variety of organisms and their diet may vary with season and locality.

Gray Whale

Gray whales were listed under the Endangered Species Conservation Act in 1970 and under the ESA since its inception in 1973. However, in 1994, the eastern North Pacific (ENP) stock of gray whales was delisted from the ESA, while the western North Pacific (WNP) stock remains endangered. A limited number of WNP gray whales have recently been observed off the west coast of North America in winter. However, most gray whales found in

Alaska are part of the ENP stock. The most recent stock assessment in 2014 estimated 20,990 individuals in the ENP stock. The WNP stock population estimate is 135 individuals (Carretta *et al.*, 2016). ENP gray whales spend summers feeding in the Chukchi and Bering seas, and their breeding and calving grounds are located off Baja California, Mexico (Carretta *et al.*, 2016). Due to the very large range and small population size of the WNP stock, occurrences of these animals in the project area are highly unlikely. Therefore, take is not anticipated or proposed and WNP whales will not be discussed further.

Gray whales pass through the Shumagin Islands from March through May on their northward migration to the Bering and Chukchi seas. Most individuals pass through Unimak Pass, which is located just west of the Shumagin Islands. The Shumagin Islands are considered a biologically important area for the gray whale due to this consistent migration route. Gray whales pass through again from November through January on their southern migration (NOAA 2016; Carretta *et al.*, 2016).

Gray whales are rarely observed near Sand Point or in Humboldt Harbor. Approximately 10 years ago, a single juvenile gray whale was observed in Humboldt Harbor, but this individual was thought to be separated from its family group (HDR 2017). During migration, however, they are known to pass through Unga Strait, to the north of the project area, or the Gorman and West Nagai straits south of the project area (NOAA 2016).

Gray whales of the eastern North Pacific stock breed and calve in protected bays and estuaries of Baja California, Mexico. Large congregations form there in January and February. Between February and May gray whales undertake long migrations to the Bering and Chukchi seas where they disperse across the feeding grounds. Gray whales feed on a wide variety of benthic organisms as well as planktonic and nektonic organisms. In recent years, shifts in sub-arctic climatic conditions have reduced the productivity of benthic communities and have resulted in a shift in the food supply. In response, gray whales have shifted their feeding strategies and focus almost exclusively on the Chukchi Sea. Secondary feeding areas include the Bering Sea, Beaufort Sea, and some individuals have been reported along the west coast of North America as far south as California. The southerly migration occurs from October through

January (Jones and Swartz 2009; Muto *et al.*, 2016).

Minke Whale

Minke whales are protected under the MMPA, but they are not listed under the ESA. The population status of minke whales is considered stable throughout most of their range. The International Whaling Commission has identified three stocks in the North Pacific: One near the Sea of Japan, a second in the rest of the western Pacific (west of 180° W.), and a third, less concentrated stock found throughout the eastern Pacific. NOAA further splits this third stock between Alaskan whales and resident whales of California, Oregon, and Washington (Muto *et al.*, 2016). There are no population estimates for minke whales in Alaska; however, nearshore aerial surveys of the western Gulf of Alaska took place between 2001 and 2003. These surveys estimated the minke whale population in that area at approximately 1,233 individuals (Zerbini *et al.*, 2006).

Minke whales are common in the Aleutian Islands and north through the Bering Sea and Chukchi Sea, but are relatively uncommon in the Shumagin Islands and Gulf of Alaska (Muto *et al.*, 2016, Zerbini *et al.*, 2006). Sightings did occur northwest of Unga Island during surveys in 2001, and northeast of Popof Island during 2002 and 2003 (Zerbini *et al.*, 2006).

In Alaska, the minke whale diet primarily consists of euphausiids and walleye pollock. Minke whales are generally found in shallow, coastal waters within 200 meters of shore (Zerbini *et al.*, 2006) and are almost always solitary or in small groups of 2 to 3. In Alaska, seasonal movements are associated with feeding areas that are generally located at the edge of the pack ice.

Pinnipeds

Steller Sea Lions

Steller sea lions are found throughout the northern Pacific Ocean, including coastal and inland waters from Russia (Kuril Islands and the Sea of Okhotsk), east to Alaska, and south to central California (Año Nuevo Island). Steller sea lions were listed as threatened range-wide under the ESA on November 26, 1990 (55 FR 49204). Steller sea lions were subsequently partitioned into the western and eastern DPSs in 1997 (Allen and Angliss 2010). The eastern DPS remained classified as threatened (62 FR 24345) until it was delisted in November 2013. The wDPS (those individuals west of 144° W. longitude or Cape Suckling, Alaska) was upgraded to

endangered status following separation of the DPSs, and it remains endangered today. Only the wDPS is considered in this application because the range of the eastern DPS is not known to include the project area.

From 2000–2004, non-pup Steller sea lion counts at trend sites in the wDPS increased 11 percent. These counts suggested the first region-wide increases for the wDPS since standardized surveys began in the 1970s, and were attributed to increased survey efforts in all regions except the western Aleutian Islands. Annual surveys of haulouts and rookeries in the western Gulf of Alaska since 1985 indicate a 16 percent increase in non-pup counts and 38 percent reduction in pup counts over the 30-year period. However, since 2003, these counts have increased by 58 percent for non-pups and 53 percent for pups (Fritz *et al.*, 2016a, 2016b). Annual increases for the western Gulf of Alaska range between 3.4 and 3.8 percent for non-pup and pup counts since the early 2000s (Muto *et al.*, 2016a; Fritz *et al.*, 2016a, 2016b).

The wDPS breeds on rookeries in Alaska from Prince William Sound west through the Aleutian Islands. Steller sea lions use 38 rookeries and hundreds of haulouts within their range in western Alaska (Allen and Angliss 2013). Steller sea lions are not known to migrate, but individuals may disperse widely outside the breeding season (late May to early July). At sea, Steller sea lions are commonly found from nearshore habitats to the continental shelf and slope.

On August 27, 1993, NMFS published a final rule designating critical habitat for the Steller sea lion. In Alaska, designated critical habitat includes all major Steller sea lion rookeries and major haulouts identified in the listing notice (58 FR 45269) and associated terrestrial, air, and aquatic zones. Critical habitat includes a terrestrial zone that extends 0.9 kilometer (3,000 feet) landward from each major rookery and major haulout, and an air zone that extends 0.9 kilometer (3,000 feet) above the terrestrial zone of each major rookery and major haulout. For each major rookery and major haulout located west of 144° W. longitude (*i.e.*, the project area), critical habitat includes an aquatic zone (or buffer) that extends 37 kilometers (20 nautical miles) seaward in all directions. Critical habitat also includes three large offshore foraging areas: The Shelikof Strait area, the Bogoslof area, and the Seguam Pass area (58 FR 45269).

The project is located within the aquatic zones (*i.e.*, designated critical habitat) of two designated major

haulouts: Sea Lion Rocks (Shumagins) and The Whaleback. The ensonified Level B harassment zone related to implementation of the proposed project, described later in the “Estimated Take” section, overlaps with the designated aquatic zone or buffer of a third designated major haulout on Jude Island. No terrestrial or in-air critical habitat of any major haulout overlaps with the project area. The major haulout at Sea Lion Rocks (Shumagins) is located approximately 28 kilometers (15.1 nautical miles) south of the project site. The major haulout at The Whaleback is located approximately 27.4 kilometers (14.8 nautical miles) east of Sand Point. The major haulout at Jude Island is located 39.6 kilometers (21.4 nautical miles) west of Sand Point.

The project area does not overlap with the aquatic zone of any major rookery, nor does it overlap with the three designated offshore foraging areas. The closest designated major rookery is on the east side of Atkins Island, which is approximately 83.3 kilometers (45 nautical miles) southeast of Sand Point. Another major rookery is located about 85.2 kilometers (46 nautical miles) south of Sand Point on the southwest point of Chernabura Island (Fritz *et al.*, 2016c).

Steller sea lions are the most obvious and abundant marine mammal in the project area, and their abundance is highly correlated with seasonal fishing activity. Sea lions tend to congregate at the seafood processing facility (Figure 1–3 and Figure 1–4 in the application) during the walleye pollock (*Gadus chalcogramma*) fishing seasons (HDR 2017). There are four official pollock fishing seasons: The “A” season starts on January 20, the “B” season starts on March 10, the “C” season starts on August 25, and the “D” season starts on October 1 (HDR 2017). The end dates of these seasons are variable. Outside of the pollock seasons, there are few sea lions in the harbor. It is suspected that sea lions are feeding on salmon during the summer salmon runs, and are not present in high numbers around Sand Point (HDR 2017).

The closest Steller sea lion haulout to the project area is located on Egg Island, which is approximately 6 kilometers (3.7 nautical miles) from the project. Recent counts have not recorded any Steller sea lions at this haulout (Fritz *et al.*, 2016a, 2016b; HDR 2017), however, local anecdotal reports suggest that the haulout does experience some use (HDR). Researchers have noted as many as 10 sea lions at this haulout in May, although these observations are not part of systematic counts (HDR 2017). The closest rookery is located on Jude

Island, approximately 38.9 kilometers (21 nautical miles) west of Sand Point, and had average annual counts of 214 sea lion pups from 2009–2014 (Fritz *et al.*, 2016a). Note that these locations are not considered major haulouts.

Sea lions have become accustomed to depredating fishing gear and raiding fishing vessels during fishing and offloading near the project area and they follow potential sources of food in and around the Humboldt Harbor, waiting for opportunities to feed. The number of sea lions in the waters near Sand Point varies depending on the season and presence of commercial fishing vessels unloading their catch at the seafood processing facility. The Sand Point harbormaster and seafood processing plant foreman are the best available sources for information on sea lion abundance at Sand Point. Information from these individuals suggests that the highest numbers of sea lions are present during the pollock fishing seasons.

Average counts at the seafood processing facility range from 4 to 12, but can occasionally reach as many as 20 sea lions. There are no notable differences in abundance between the four pollock seasons. Outside of the pollock seasons, sea lions may be present, but in small numbers (*i.e.*, 1 or 2 individuals). Sea lions also regularly visit other parts of Humboldt Harbor in search of opportunistic food sources, including the small boat harbor, the New Harbor, and City Dock (HDR 2017).

Harbor Seals

Harbor seals range from Baja California north along the west coasts of Washington, Oregon, California, British Columbia, and Southeast Alaska; west through the Gulf of Alaska, Prince William Sound, and the Aleutian Islands; and north in the Bering Sea to Cape Newenham and the Pribilof Islands. In 2010, harbor seals in Alaska were partitioned into 12 separate stocks based largely on genetic structure (Allen and Angliss 2010). Harbor seals in the Shumagin Islands are members of the Cook Inlet/Shelikof Strait stock. Distribution of the Cook Inlet/Shelikof Strait stock extends from the southwest shore of Unimak Island east along the southern coast of the Alaska Peninsula to Elizabeth Island off the southwest shore of the Kenai Peninsula, including Cook Inlet, Knik Arm, and Turnagain Arm (Muto *et al.*, 2016a).

Harbor seals are not designated as depleted under the MMPA and are not listed as threatened or endangered under the ESA. The current statewide abundance estimate for Alaskan harbor seals is 205,090 based on aerial survey data collected during 1998–2011. The

2007 through 2011 abundance estimate for the Cook Inlet/Shelikof stock is 27,386 (Muto *et al.*, 2016a).

Survey data by London *et al.* (2015) for the Shumagin Islands in 2011 indicate that harbor seals used two haulouts in the project area during that year. One is located on the south shore of Popof Island south of the airport at a distance of approximately 10 km (5.5 nautical miles) from Humboldt Harbor. The other is on the northeast shore of Unga Island approximately 23 km (12 nautical miles) distant from the project site. No known haulouts overlap within the Level B underwater harassment zones estimated for the project. Aerial haulout surveys conducted by London *et al.* (2015) indicated that 15 harbor seals occupy the survey unit along the south coast of Popof Island, including the area around Sand Point. Abundance estimates at other survey units in the area ranged from zero on the north shore of Popof Island to 100 along the northeast coast of Unga Island. This information comes from a single year of surveys, and standard errors on these estimates are very high; therefore, confidence in these estimates is low (London *et al.*, 2015). Anecdotal observations indicate that harbor seals are uncommon in Humboldt Harbor proper, but are occasionally observed near the airport (HDR 2017).

Harbor seals are opportunistic feeders that forage in marine, estuarine, and, occasionally, freshwater habitat, adjusting their foraging behavior to take advantage of prey that is locally and seasonally abundant (Payne and Selzer 1989). Depending on prey availability, research has demonstrated that harbor seals conduct both shallow and deep dives during hunting (Tollit *et al.*, 1997). Harbor seals haul out on rocks, reefs, beaches, and drifting glacial ice (Muto *et al.*, 2016a). They are non-migratory; their local movements are associated with tides, weather, season, food availability, and reproduction, as well as sex and age class (Muto *et al.*, 2016a; Allen and Angliss 2014; Boveng *et al.*, 2012; Lowry *et al.*, 2001; Swain *et al.*, 1996).

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 (*e.g.* sound produced by pile driving and removal) may impact marine mammals and their habitat. The “Estimated Take” section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The “Negligible Impact 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 pile driving and removal activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely affect marine mammal species or stocks.

Description of Sound Sources

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in hertz (Hz) or cycles per second. Wavelength is the distance between two peaks of a sound wave; lower frequency sounds have longer wavelengths than higher frequency sounds and attenuate (decrease) more rapidly in shallower water. Amplitude is the height of the sound pressure wave or the ‘loudness’ of a sound and is typically measured using the decibel (dB) scale. A dB is the ratio between a measured pressure (with sound) and a reference pressure (sound at a constant pressure, established by scientific standards). It is a logarithmic unit that accounts for large variations in amplitude; therefore, relatively small changes in dB ratings correspond to large changes in sound pressure. When referring to sound pressure levels (SPLs; the sound force per unit area), sound is referenced in the context of underwater sound pressure to 1 microPascal (μPa). One pascal is the pressure resulting from a force of one newton exerted over an area of one square meter. The source level (SL) represents the sound level at a distance of 1 m from the source (referenced to 1 μPa). The received level is the sound level at the listener’s position. Note that all underwater sound levels in this document are referenced to a pressure of 1 μPa and all airborne sound levels in this document are referenced to a pressure of 20 μPa .

Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse. Rms is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1983). Rms accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper, 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues,

may be better expressed through averaged units than by peak pressures.

When underwater objects vibrate or activity occurs, sound-pressure waves are created. These waves alternately compress and decompress the water as the sound wave travels. Underwater sound waves radiate in all directions away from the source (similar to ripples on the surface of a pond), except in cases where the source is directional. The compressions and decompressions associated with sound waves are detected as changes in pressure by aquatic life and man-made sound receptors such as hydrophones.

Even in the absence of sound from the specified activity, the underwater environment is typically loud due to ambient sound. Ambient sound is defined as environmental background sound levels lacking a single source or point (Richardson *et al.*, 1995), and the sound level of a region is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.*, waves, earthquakes, ice, atmospheric sound), biological (*e.g.*, sounds produced by marine mammals, fish, and invertebrates), and anthropogenic sound (*e.g.*, vessels, dredging, aircraft, construction). A number of sources contribute to ambient sound, including the following (Richardson *et al.*, 1995):

- Wind and waves: The complex interactions between wind and water surface, including processes such as breaking waves and wave-induced bubble oscillations and cavitation, are a main source of naturally occurring ambient noise for frequencies between 200 Hz and 50 kHz (Mitson, 1995). In general, ambient sound levels tend to increase with increasing wind speed and wave height. Surf noise becomes important near shore, with measurements collected at a distance of 8.5 km from shore showing an increase of 10 dB in the 100 to 700 Hz band during heavy surf conditions.

- Precipitation: Sound from rain and hail impacting the water surface can become an important component of total noise at frequencies above 500 Hz, and possibly down to 100 Hz during quiet times.

- Biological: Marine mammals can contribute significantly to ambient noise levels, as can some fish and shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz.

- Anthropogenic: Sources of ambient noise related to human activity include transportation (surface vessels and aircraft), dredging and construction, oil and gas drilling and production, seismic surveys, sonar, explosions, and ocean

acoustic studies. Shipping noise typically dominates the total ambient noise for frequencies between 20 and 300 Hz. In general, the frequencies of anthropogenic sounds are below 1 kHz and, if higher frequency sound levels are created, they attenuate rapidly (Richardson *et al.*, 1995). Sound from identifiable anthropogenic sources other than the activity of interest (*e.g.*, a passing vessel) is sometimes termed background sound, as opposed to ambient sound.

The sum of the various natural and anthropogenic sound sources at any given location and time—which comprise “ambient” or “background” sound—depends not only on the source levels (as determined by current weather conditions and levels of biological and shipping activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.*, 1995). The result is that, depending on the source type and its intensity, sound from the specified activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals.

In-water construction activities associated with the project would include impact pile driving, vibratory pile driving and vibratory pile extraction. The sounds produced by these activities fall into one of two general sound types: Pulsed and non-pulsed (defined in the following paragraphs). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.*, Ward, 1997 in Southall *et al.*, 2007). Please see Southall *et al.*, (2007) for an in-depth discussion of these concepts.

Pulsed sound sources (*e.g.*, explosions, gunshots, sonic booms, impact pile driving) produce signals that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI, 1986; Harris, 1998; NIOSH, 1998; ISO, 2003; ANSI, 2005) and occur either as isolated events or repeated in some succession. Pulsed sounds are all characterized by a relatively rapid rise from ambient pressure to a maximal pressure value

followed by a rapid decay period that may include a period of diminishing, oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical injury as compared with sounds that lack these features.

Non-pulsed sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or non-continuous (ANSI, 1995; NIOSH, 1998). Some of these non-pulsed sounds can be transient signals of short duration but without the essential properties of pulses (*e.g.*, rapid rise time). Examples of non-pulsed sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems (such as those used by the U.S. Navy). The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

Impact hammers operate by repeatedly dropping a heavy piston onto a pile to drive the pile into the substrate. Sound generated by impact hammers is characterized by rapid rise times and high peak levels, a potentially injurious combination (Hastings and Popper, 2005). Vibratory hammers install piles by vibrating them and allowing the weight of the hammer to push them into the sediment. Vibratory hammers produce significantly less sound than impact hammers. Peak SPLs may be 180 dB or greater, but are generally 10 to 20 dB lower than SPLs generated during impact pile driving of the same-sized pile (Oestman *et al.*, 2009). Rise time is slower, reducing the probability and severity of injury, and sound energy is distributed over a greater amount of time (Nedwell and Edwards, 2002; Carlson *et al.*, 2005).

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals, and exposure to sound can have deleterious effects. To appropriately assess these potential effects, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.*, Richardson *et al.*, 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on measured or estimated hearing ranges on the basis of available behavioral data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct

measurements of hearing ability have been successfully completed for mysticetes (*i.e.*, low-frequency cetaceans). Subsequently, NMFS (2016) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 dB threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. The functional groups and the associated frequencies are indicated below (note that these frequency ranges correspond to the range for the composite group, with the entire range not necessarily reflecting the capabilities of every species within that group) (NMFS 2016):

- Low-frequency cetaceans (mysticetes): Generalized hearing is estimated to occur between approximately 7 Hz and 35 kHz, with best hearing estimated to be from 100 Hz to 8 kHz;
- Mid-frequency cetaceans (larger toothed whales, beaked whales, and most delphinids): Generalized hearing is estimated to occur between approximately 150 Hz and 160 kHz, with best hearing from 10 to less than 100 kHz;
- High-frequency cetaceans (porpoises, river dolphins, and members of the genera *Kogia* and *Cephalorhynchus*; including two members of the genus *Lagenorhynchus*, on the basis of recent echolocation data and genetic data): Generalized hearing is estimated to occur between approximately 275 Hz and 160 kHz.
- Pinnipeds in water; Phocidae (true seals): Generalized hearing is estimated to occur between approximately 50 Hz to 86 kHz, with best hearing between 1–50 kHz;
- Pinnipeds in water; Otariidae (eared seals): Generalized hearing is estimated to occur between 60 Hz and 39 kHz, with best hearing between 2–48 kHz.

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Kastelein *et al.*, 2009; Reichmuth *et al.*, 2013).

As mentioned previously in this document, nine marine mammal species (seven cetaceans and two pinnipeds) may occur in the project area. Of the cetaceans, four are classified as a low-frequency cetacean (*i.e.*, humpback whale, gray whale, fin whale, minke

whale), one is classified as a mid-frequency cetacean (*i.e.*, killer whale), and two are classified as high-frequency cetaceans (*i.e.*, harbor porpoise and Dall's porpoise) (Southall *et al.*, 2007). Additionally, harbor seals are classified as members of the phocid pinnipeds in water functional hearing group while Steller sea lions are grouped under the Otariid pinnipeds in water functional hearing group. A species' functional hearing group is a consideration when we analyze the effects of exposure to sound on marine mammals. Marine mammal hearing groups were also used in the establishment of marine mammal auditory weighting functions in the new acoustic guidance.

Acoustic Impacts

Please refer to the information given previously (*Description of Sound Sources*) regarding sound, characteristics of sound types, and metrics used in this document. Anthropogenic sounds cover a broad range of frequencies and sound levels and can have a range of highly variable impacts on marine life, from none or minor to potentially severe responses, depending on received levels, duration of exposure, behavioral context, and various other factors. The potential effects of underwater sound from active acoustic sources can potentially result in one or more of the following: Temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, stress, and masking (Richardson *et al.*, 1995; Gordon *et al.*, 2004; Nowacek *et al.*, 2007; Southall *et al.*, 2007). The degree of effect is intrinsically related to the signal characteristics, received level, distance from the source, and duration of the sound exposure. In general, sudden, high level sounds can cause hearing loss, as can longer exposures to lower level sounds. Temporary or permanent loss of hearing will occur almost exclusively for noise within an animal's hearing range. In this section, we first describe specific manifestations of acoustic effects before providing discussion specific to the proposed construction activities in the next section.

Permanent Threshold Shift—Marine mammals exposed to high-intensity sound, or to lower-intensity sound for prolonged periods, can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Kastak *et al.*, 1999; Schlundt *et al.*, 2000; Finneran *et al.*, 2002, 2005). TS can be permanent (PTS), in which case the loss of hearing sensitivity is not fully recoverable, or

temporary (TTS), in which case the animal's hearing threshold would recover over time (Southall *et al.*, 2007). Repeated sound exposure that leads to TTS could cause PTS. In severe cases of PTS, there can be total or partial deafness, while in most cases the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter, 1985).

When PTS occurs, there is physical damage to the sound receptors in the ear (*i.e.*, tissue damage), whereas TTS represents primarily tissue fatigue and is reversible (Southall *et al.*, 2007). In addition, other investigators have suggested that TTS is within the normal bounds of physiological variability and tolerance and does not represent physical injury (*e.g.*, Ward, 1997). Therefore, NMFS does not consider TTS to constitute auditory injury.

Relationships between TTS and PTS thresholds have not been studied in marine mammals—PTS data exists only for a single harbor seal (Kastak *et al.*, 2008)—but are assumed to be similar to those in humans and other terrestrial mammals. PTS typically occurs at exposure levels at least several decibels above (a 40-dB threshold shift approximates PTS onset; *e.g.*, Kryter *et al.*, 1966; Miller, 1974) that inducing mild TTS (a 6-dB threshold shift approximates TTS onset; *e.g.*, Southall *et al.*, 2007). Based on data from terrestrial mammals, a precautionary assumption is that the PTS thresholds for impulse sounds (such as impact pile driving pulses as received close to the source) are at least six dB higher than the TTS threshold on a peak-pressure basis and PTS cumulative sound exposure level thresholds are 15 to 20 dB higher than TTS cumulative sound exposure level thresholds (Southall *et al.*, 2007).

Temporary threshold shift—TTS is the mildest form of hearing impairment that can occur during exposure to sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises, and a sound must be at a higher level in order to be heard. In terrestrial and marine mammals, TTS can last from minutes or hours to days (in cases of strong TTS). In many cases, hearing sensitivity recovers rapidly after exposure to the sound ends.

Marine mammal hearing plays a critical role in communication with conspecifics, and interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (*i.e.*, recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine

mammals ranging from discountable to serious. For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that occurs during a time where ambient noise is lower and there are not as many competing sounds present.

Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin [*Tursiops truncatus*], beluga whale [*Delphinapterus leucas*], harbor porpoise, and Yangtze finless porpoise [*Neophocoena asiaorientalis*]) and three species of pinnipeds (northern elephant seal [*Mirounga angustirostris*], harbor seal, and California sea lion [*Zalophus californianus*]) exposed to a limited number of sound sources (*i.e.*, mostly tones and octave-band noise) in laboratory settings (*e.g.*, Finneran *et al.*, 2002; Nachtigall *et al.*, 2004; Kastak *et al.*, 2005; Lucke *et al.*, 2009; Popov *et al.*, 2011). In general, harbor seals (Kastak *et al.*, 2005; Kastelein *et al.*, 2012a) and harbor porpoises (Lucke *et al.*, 2009; Kastelein *et al.*, 2012b) have a lower TTS onset than other measured pinniped or cetacean species. Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species. There are no data available on noise-induced hearing loss for mysticetes. For summaries of data on TTS in marine mammals or for further discussion of TTS onset thresholds, please see Southall *et al.* (2007), Finneran and Jenkins (2012), and Finneran (2015).

Behavioral effects—Behavioral disturbance may include a variety of effects, including subtle changes in behavior (*e.g.*, minor or brief avoidance of an area or changes in vocalizations), more conspicuous changes in similar behavioral activities, and more sustained and/or potentially severe reactions, such as displacement from or abandonment of high-quality habitat. Behavioral responses to sound are highly variable and context-specific and any reactions depend on numerous intrinsic and extrinsic factors (*e.g.*, species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors (*e.g.*, Richardson *et al.*, 1995; Wartzok *et al.*, 2003; Southall *et al.*, 2007; Weilgart, 2007; Archer *et al.*, 2010). Behavioral reactions can vary not only among individuals but also within an individual, depending on previous

experience with a sound source, context, and numerous other factors (Ellison *et al.*, 2012), and can vary depending on characteristics associated with the sound source (*e.g.*, whether it is moving or stationary, number of sources, distance from the source). Please see Appendices B–C of Southall *et al.* (2007) for a review of studies involving marine mammal behavioral responses to sound.

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.*, 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. It is important to note that habituation is appropriately considered as a “progressive reduction in response to stimuli that are perceived as neither aversive nor beneficial,” rather than as, more generally, moderation in response to human disturbance (Bejder *et al.*, 2009). The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure. As noted, behavioral state may affect the type of response. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.*, 1995; NRC, 2003; Wartzok *et al.*, 2003). Controlled experiments with captive marine mammals have showed pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.*, 1997; Finneran *et al.*, 2003). Observed responses of wild marine mammals to loud pulsed sound sources (typically seismic airguns or acoustic harassment devices) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds, 2002; see also Richardson *et al.*, 1995; Nowacek *et al.*, 2007).

Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal. If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.*, Lusseau and

Bejder, 2007; Weilgart, 2007; NRC, 2003). However, there are broad categories of potential response, which we describe in greater detail here, that include alteration of dive behavior, alteration of foraging behavior, effects to breathing, interference with or alteration of vocalization, avoidance, and flight.

Changes in dive behavior can vary widely, and may consist of increased or decreased dive times and surface intervals as well as changes in the rates of ascent and descent during a dive (*e.g.*, Frankel and Clark, 2000; Costa *et al.*, 2003; Ng and Leung, 2003; Nowacek *et al.*, 2004; Goldbogen *et al.*, 2013a,b). Variations in dive behavior may reflect interruptions in biologically significant activities (*e.g.*, foraging) or they may be of little biological significance. The impact of an alteration to dive behavior resulting from an acoustic exposure depends on what the animal is doing at the time of the exposure and the type and magnitude of the response.

Disruption of feeding behavior can be difficult to correlate with anthropogenic sound exposure, so it is usually inferred by observed displacement from known foraging areas, the appearance of secondary indicators (*e.g.*, bubble nets or sediment plumes), or changes in dive behavior. As for other types of behavioral response, the frequency, duration, and temporal pattern of signal presentation, as well as differences in species sensitivity, are likely contributing factors to differences in response in any given circumstance (*e.g.*, Croll *et al.*, 2001; Nowacek *et al.*, 2004; Madsen *et al.*, 2006; Yazvenko *et al.*, 2007). A determination of whether foraging disruptions incur fitness consequences would require information on or estimates of the energetic requirements of the affected individuals and the relationship between prey availability, foraging effort and success, and the life history stage of the animal.

Variations in respiration naturally vary with different behaviors and alterations to breathing rate as a function of acoustic exposure can be expected to co-occur with other behavioral reactions, such as a flight response or an alteration in diving. However, respiration rates in and of themselves may be representative of annoyance or an acute stress response. Various studies have shown that respiration rates may either be unaffected or could increase, depending on the species and signal characteristics, again highlighting the importance in understanding species differences in the tolerance of underwater noise when determining the potential for impacts resulting from anthropogenic sound

exposure (*e.g.*, Kastelein *et al.*, 2001, 2005b, 2006; Gailey *et al.*, 2007).

Marine mammals vocalize for different purposes and across multiple modes, such as whistling, echolocation click production, calling, and singing. Changes in vocalization behavior in response to anthropogenic noise can occur for any of these modes and may result from a need to compete with an increase in background noise or may reflect increased vigilance or a startle response. For example, in the presence of potentially masking signals, humpback whales and killer whales have been observed to increase the length of their songs (Miller *et al.*, 2000; Fristrup *et al.*, 2003; Foote *et al.*, 2004), while right whales have been observed to shift the frequency content of their calls upward while reducing the rate of calling in areas of increased anthropogenic noise (Parks *et al.*, 2007b). In some cases, animals may cease sound production during production of aversive signals (Bowles *et al.*, 1994).

Avoidance is the displacement of an individual from an area or migration path as a result of the presence of a sound or other stressors, and is one of the most obvious manifestations of disturbance in marine mammals (Richardson *et al.*, 1995). For example, gray whales are known to change direction—deflecting from customary migratory paths—in order to avoid noise from seismic surveys (Malme *et al.*, 1984). Avoidance may be short-term, with animals returning to the area once the noise has ceased (*e.g.*, Bowles *et al.*, 1994; Goold, 1996; Stone *et al.*, 2000; Morton and Symonds, 2002; Gailey *et al.*, 2007). Longer-term displacement is possible, however, which may lead to changes in abundance or distribution patterns of the affected species in the affected region if habituation to the presence of the sound does not occur (*e.g.*, Blackwell *et al.*, 2004; Bejder *et al.*, 2006; Teilmann *et al.*, 2006).

A flight response is a dramatic change in normal movement to a directed and rapid movement away from the perceived location of a sound source. The flight response differs from other avoidance responses in the intensity of the response (*e.g.*, directed movement, rate of travel). Relatively little information on flight responses of marine mammals to anthropogenic signals exist, although observations of flight responses to the presence of predators have occurred (Connor and Heithaus, 1996). The result of a flight response could range from brief, temporary exertion and displacement from the area where the signal provokes flight to, in extreme cases, marine

mammal strandings (Evans and England, 2001). However, it should be noted that response to a perceived predator does not necessarily invoke flight (Ford and Reeves, 2008), and whether individuals are solitary or in groups may influence the response.

Behavioral disturbance can also impact marine mammals in more subtle ways. Increased vigilance may result in costs related to diversion of focus and attention (*i.e.*, when a response consists of increased vigilance, it may come at the cost of decreased attention to other critical behaviors such as foraging or resting). These effects have generally not been demonstrated for marine mammals, but studies involving fish and terrestrial animals have shown that increased vigilance may substantially reduce feeding rates (*e.g.*, Beauchamp and Livoreil, 1997; Fritz *et al.*, 2002; Purser and Radford, 2011). In addition, chronic disturbance can cause population declines through reduction of fitness (*e.g.*, decline in body condition) and subsequent reduction in reproductive success, survival, or both (*e.g.*, Harrington and Veitch, 1992; Daan *et al.*, 1996; Bradshaw *et al.*, 1998). However, Ridgway *et al.* (2006) reported that increased vigilance in bottlenose dolphins exposed to sound over a five-day period did not cause any sleep deprivation or stress effects.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hour cycle). Disruption of such functions resulting from reactions to stressors such as sound exposure are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.*, 2007). Consequently, a behavioral response lasting less than one day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.*, 2007). Note that there is a difference between multi-day substantive behavioral reactions and multi-day anthropogenic activities. For example, just because an activity lasts for multiple days does not necessarily mean that individual animals are either exposed to activity-related stressors for multiple days or, further, exposed in a manner resulting in sustained multi-day substantive behavioral responses.

Stress responses—An animal's perception of a threat may be sufficient to trigger stress responses consisting of some combination of behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses (*e.g.*, Seyle, 1950; Moberg, 2000). In many cases, an animal's first and sometimes most

economical (in terms of energetic costs) response is behavioral avoidance of the potential stressor. Autonomic nervous system responses to stress typically involve changes in heart rate, blood pressure, and gastrointestinal activity. These responses have a relatively short duration and may or may not have a significant long-term effect on an animal's fitness.

Neuroendocrine stress responses often involve the hypothalamus-pituitary-adrenal system. Virtually all neuroendocrine functions that are affected by stress—including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction, altered metabolism, reduced immune competence, and behavioral disturbance (*e.g.*, Moberg, 1987; Blecha, 2000). Increases in the circulation of glucocorticoids are also equated with stress (Romano *et al.*, 2004).

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and "distress" is the cost of the response. During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose serious fitness consequences. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other functions. This state of distress will last until the animal replenishes its energetic reserves sufficient to restore normal function.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well-studied through controlled experiments and for both laboratory and free-ranging animals (*e.g.*, Holberton *et al.*, 1996; Hood *et al.*, 1998; Jessop *et al.*, 2003; Krausman *et al.*, 2004; Lankford *et al.*, 2005). Stress responses due to exposure to anthropogenic sounds or other stressors and their effects on marine mammals have also been reviewed (Fair and Becker, 2000; Romano *et al.*, 2002b) and, more rarely, studied in wild populations (*e.g.*, Romano *et al.*, 2002a). For example, Rolland *et al.* (2012) found that noise reduction from reduced ship traffic in the Bay of Fundy was associated with decreased stress in North Atlantic right whales. These and other studies lead to a reasonable expectation that some marine mammals will experience physiological stress responses upon exposure to acoustic

stressors and that it is possible that some of these would be classified as "distress." In addition, any animal experiencing TTS would likely also experience stress responses (NRC, 2003).

Auditory masking—Sound can disrupt behavior through masking, or interfering with, an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.*, those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation) (Richardson *et al.*, 1995). Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher intensity, and may occur whether the sound is natural (*e.g.*, snapping shrimp, wind, waves, precipitation) or anthropogenic (*e.g.*, shipping, sonar, seismic exploration) in origin. The ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (*e.g.*, signal-to-noise ratio, temporal variability, direction), in relation to each other and to an animal's hearing abilities (*e.g.*, sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age or TTS hearing loss), and existing ambient noise and propagation conditions.

Under certain circumstances, marine mammals experiencing significant masking could also be impaired from maximizing their performance fitness in survival and reproduction. Therefore, when the coincident (masking) sound is man-made, it may be considered harassment when disrupting or altering critical behaviors. It is important to distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs during the sound exposure. Because masking (without resulting in TS) is not associated with abnormal physiological function, it is not considered a physiological effect, but rather a potential behavioral effect.

The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. For example, low-frequency signals may have less effect on high-frequency echolocation sounds produced by odontocetes but are more likely to affect detection of mysticete communication calls and other potentially important natural sounds such as those produced by surf and some prey species. The masking of communication signals by anthropogenic noise may be considered as a reduction in the communication space of animals (*e.g.*, Clark *et al.*, 2009)

and may result in energetic or other costs as animals change their vocalization behavior (e.g., Miller *et al.*, 2000; Foote *et al.*, 2004; Parks *et al.*, 2007b; Di Iorio and Clark, 2009; Holt *et al.*, 2009). Masking can be reduced in situations where the signal and noise come from different directions (Richardson *et al.*, 1995), through amplitude modulation of the signal, or through other compensatory behaviors (Houser and Moore, 2014). Masking can be tested directly in captive species (e.g., Erbe, 2008), but in wild populations it must be either modeled or inferred from evidence of masking compensation. There are few studies addressing real-world masking sounds likely to be experienced by marine mammals in the wild (e.g., Branstetter *et al.*, 2013).

Masking affects both senders and receivers of acoustic signals and can potentially have long-term chronic effects on marine mammals at the population level as well as at the individual level. Low-frequency ambient sound levels have increased by as much as 20 dB (more than three times in terms of SPL) in the world's ocean from pre-industrial periods, with most of the increase from distant commercial shipping (Hildebrand, 2009). All anthropogenic sound sources, but especially chronic and lower-frequency signals (e.g., from vessel traffic), contribute to elevated ambient sound levels, thus intensifying masking.

At the seafood processing plant north of the project site, fish are offloaded into the processing plant from the vessels' holds, and several vessels may raft up simultaneously during peak fishing seasons. A small boat harbor is located northeast of the project site and services a number of small vessels. High levels of vessel traffic are known to elevate background levels of noise in the marine environment. For example, continuous sounds for tugs pulling barges have been reported to range from 145 to 166 dB re 1 μ Pa rms at 1 meter from the source (Miles *et al.*, 1987; Richardson *et al.*, 1995; Simmonds *et al.*, 2004). Ambient underwater noise levels in the vicinity of the project site are unknown but could potentially mask some sounds of pile installation and pile extraction.

Non-auditory physiological effects—Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to strong underwater sound include stress, neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.*, 2006; Southall *et al.*, 2007). Studies examining such effects are limited. In general, little is known about the potential for pile

driving to cause auditory impairment or other physical effects in marine mammals. Available data suggest that such effects, if they occur at all, would presumably be limited to short distances from the sound source, where SPLs are much higher, and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.*, 2007) or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. Marine mammals that show behavioral avoidance of pile driving, including some odontocetes and some pinnipeds, are especially unlikely to incur auditory impairment or non-auditory physical effects.

Underwater Acoustic Effects From the Proposed Activities

Potential Effects of Pile Driving Sound—The effects of sounds from pile driving might include one or more of the following: Temporary or permanent hearing impairment, non-auditory physical or physiological effects, and behavioral disturbance (Richardson *et al.*, 1995; Gordon *et al.*, 2003; Nowacek *et al.*, 2007; Southall *et al.*, 2007). The effects of pile driving on marine mammals are dependent on several factors, including the type and depth of the animal; the pile size and type, and the intensity and duration of the pile driving sound; the substrate; the standoff distance between the pile and the animal; and the sound propagation properties of the environment. Impacts to marine mammals from pile driving activities are expected to result primarily from acoustic pathways. As such, the degree of effect is intrinsically related to the frequency, received level, and duration of the sound exposure, which are in turn influenced by the distance between the animal and the source. The further away from the source, the less intense the exposure should be. The substrate and depth of the habitat affect the sound propagation properties of the environment. In addition, substrates that are soft (e.g., sand) would absorb or attenuate the sound more readily than hard substrates (e.g., rock) which may reflect the acoustic wave. Soft porous substrates would also likely require less time to drive the pile, and possibly less forceful equipment, which would ultimately decrease the intensity of the acoustic source.

Hearing Impairment and Other Physical Effects—Marine mammals exposed to high intensity sound repeatedly or for prolonged periods can

experience hearing threshold shifts. PTS constitutes injury, but TTS does not (Southall *et al.*, 2007). Based on the best scientific information available, the SPLs for the proposed construction activities may exceed the thresholds that could cause TTS or the onset of PTS based on NMFS' new acoustic guidance (81 FR 51694; August 4, 2016).

Non-auditory Physiological Effects—Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to high level underwater sound or as a secondary effect of extreme behavioral reactions (e.g., change in dive profile as a result of an avoidance reaction) caused by exposure to sound include neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.*, 2006; Southall *et al.*, 2007; Zimmer and Tyack, 2007). The proposed activities do not involve the use of devices such as explosives or mid-frequency active sonar that are associated with these types of effects, nor do they have SPLs that may cause these extreme behavioral reactions, and are therefore, considered unlikely.

Disturbance Reactions—Responses to continuous sound, such as vibratory pile installation, have not been documented as well as responses to pulsed sounds. With both types of pile driving, it is likely that the onset of pile driving could result in temporary, short term changes in an animal's typical behavior and/or avoidance of the affected area. Specific behavioral changes that may result from this proposed project include changing durations of surfacing and dives, moving direction and/or speed; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); and avoidance of areas where sound sources are located. If a marine mammal responds to a stimulus by changing its behavior (e.g., through relatively minor changes in locomotion direction/speed or vocalization behavior), the response may or may not constitute taking at the individual level, and is unlikely to affect the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, potential impacts on the stock or species could potentially be significant if growth, survival and reproduction are affected (e.g., Lusseau and Bejder, 2007; Weilgart, 2007). Note that the significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor.

Auditory Masking—Natural and artificial sounds can disrupt behavior by masking. Given that the energy distribution of pile driving covers a broad frequency spectrum, sound from these sources would likely be within the audible range of marine mammals present in the project area. Impact pile driving activity is relatively short-term, and only used for proofing, with rapid pulses occurring for only a few minutes per pile. The probability for impact pile driving resulting from this proposed action masking acoustic signals important to the behavior and survival of marine mammal species is low. Vibratory pile driving is also relatively short-term. It is possible that vibratory pile driving resulting from this proposed action may mask acoustic signals important to the behavior and survival of marine mammal species, but the short-term duration and limited affected area would result in insignificant impacts from masking. Any masking event that could possibly rise to Level B harassment under the MMPA would occur concurrently within the zones of behavioral harassment already estimated for vibratory and impact pile driving, and which have already been taken into account in the exposure analysis.

Airborne Acoustic Effects from the Proposed Activities—Pinnipeds that occur near the project site could be exposed to airborne sounds associated with pile driving that have the potential to cause behavioral harassment, depending on their distance from pile driving activities. Cetaceans are not expected to be exposed to airborne sounds that would result in harassment as defined under the MMPA.

Airborne noise will primarily be an issue for pinnipeds that are swimming or hauled out near the project site within the range of noise levels elevated above the acoustic criteria. We recognize that pinnipeds in the water could be exposed to airborne sound that may result in behavioral harassment when looking with heads above water. Most likely, airborne sound would cause behavioral responses similar to those discussed above in relation to underwater sound. However, these animals would previously have been “taken” as a result of exposure to underwater sound above the behavioral harassment thresholds, which are in all cases larger than those associated with airborne sound. Thus, the behavioral harassment of these animals is already accounted for in these estimates of potential take. Multiple instances of exposure to sound above NMFS’ thresholds for behavioral harassment are not believed to result in increased

behavioral disturbance, in either nature or intensity of disturbance reaction. Therefore, we do not believe that authorization of incidental take resulting from airborne sound for pinnipeds is warranted, and airborne sound is not discussed further here.

Potential Pile Driving Effects on Prey—Construction activities would produce continuous (*i.e.*, vibratory pile driving) sounds and pulsed (*i.e.*, impact driving) sounds. Fish react to sounds that are especially strong and/or intermittent low-frequency sounds. Short duration, sharp sounds can cause overt or subtle changes in fish behavior and local distribution. Hastings and Popper (2005) identified several studies that suggest fish may relocate to avoid certain areas of sound energy. Additional studies have documented effects of pile driving on fish, although several are based on studies in support of large, multiyear bridge construction projects (*e.g.*, Scholik and Yan, 2001, 2002; Popper and Hastings, 2009). Sound pulses at received levels of 160 dB may cause subtle changes in fish behavior. SPLs of 180 dB may cause noticeable changes in behavior (Pearson *et al.*, 1992; Skalski *et al.*, 1992). SPLs of sufficient strength have been known to cause injury to fish and fish mortality.

The most likely impact to fish from pile driving activities at the project area would be temporary behavioral avoidance. The duration of fish avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. In general, impacts to marine mammal prey species from the proposed project are expected to be minor and temporary due to the relatively short timeframe of no more than 40 days of pile driving and extraction with approximately 22 hours of impact driving and 85 hours of vibratory driving and extraction.

Effects to Foraging Habitat—Essential Fish Habitat (EFH) has been designated within the project area for all five species of salmon (*i.e.*, chum, pink, Coho, sockeye, and Chinook salmon), walleye pollock, Pacific cod, yellowfin sole (*Limanda aspera*), arrowtooth flounder (*Atheresthes stomias*), rock sole (*Lepidopsetta spp.*), flathead sole (*Hippoglossoides elassodon*), and sculpin (Cottidae). The EFH provisions of the Magnuson-Stevens Fishery Conservation and Management Act are designed to protect fisheries habitat from being lost due to disturbance and degradation.

Pile installation may temporarily increase turbidity resulting from suspended sediments. Any increases

would be temporary, localized, and minimal. ADOT&PF must comply with state water quality standards during these operations by limiting the extent of turbidity to the immediate project area. In general, turbidity associated with pile installation is localized to about a 25-foot radius around the pile (Everitt *et al.* 1980). Cetaceans are not expected to be close enough to the project pile driving areas to experience effects of turbidity, and any pinnipeds will be transiting the area and could avoid localized areas of turbidity. Therefore, the impact from increased turbidity levels is expected to be discountable to marine mammals. Furthermore, pile driving and removal at the project site will not obstruct movements or migration of marine mammals.

In summary, given the short duration of sound associated with individual pile driving events and the relatively small area that would be affected, pile driving activities associated with the proposed action are not likely to have a permanent, adverse effect on any fish habitat, or populations of fish species. Thus, any impacts to marine mammal habitat are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

Estimated Take

This section 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 means of take expected to result from these activities. Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment]. As described previously Level A and Level B harassment is expected to occur and is proposed to be authorized in the numbers identified below.

ADOT&PF has requested authorization for the incidental taking of limited numbers, by Level B harassment in the form of behavioral disturbance, of harbor porpoise, Dall’s porpoise, killer whale, humpback whale, fin whale, gray whale, minke whale, Steller sea lion,

and harbor seal near the project area that may result from impact and vibratory pile driving activities. Level A harassment in the form of PTS resulting from impact driving has also been requested for small numbers of harbor porpoise, humpback whale, and harbor seal.

Take estimates are generally based on average marine mammal density in the project area multiplied by the area size of ensonified zones within which received noise levels exceed certain thresholds (*i.e.*, Level A and/or Level B harassment) from specific activities, then multiplied by the total number of

days such activities would occur. If density information is not available, local observational data may be used instead.

In order to estimate the potential incidents of take that may occur incidental to the specified activity, we must first estimate the extent of the sound field that may be produced by the activity and then consider the sound field in combination with information about marine mammal density or abundance in the project area. We first provide information on applicable sound thresholds for determining effects to marine mammals before describing

the information used in estimating the sound fields, the available marine mammal density or abundance information, and the method of estimating potential incidents of take.

Sound Thresholds

We use the following generic sound exposure thresholds (Table 4) to determine when an activity that produces sound might result in impacts to a marine mammal such that a take by behavioral harassment (Level B) might occur.

TABLE 4—UNDERWATER LEVEL B THRESHOLD DECIBEL LEVELS FOR MARINE MAMMALS

Criterion	Criterion definition	Threshold ¹
Level B harassment	Behavioral disruption for impulse noise (<i>e.g.</i> , impact pile driving)	160 dB RMS.
Level B harassment	Behavioral disruption for non-pulse noise (<i>e.g.</i> , vibratory pile driving, drilling).	120 dB RMS.

¹ All decibel levels referenced to 1 micropascal (re: 1 μPa). Note all thresholds are based off root mean square (RMS) levels.

We use NMFS’ acoustic criteria (NMFS 2016a, 81 FR 51694; August 4, 2016), which establishes sound exposure thresholds to determine when an activity that produces sound might result in impacts to a marine mammal such that a take by auditory injury, *i.e.*, PTS, (Level A harassment) might occur. The specific methodology is presented in Appendix D of the Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Guidance), available at <http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm> and the accompanying User Spreadsheet. The Guidance provides updated PTS onset thresholds using the cumulative SEL (SEL_{cum}) metric, which incorporates marine mammal auditory weighting

functions, to identify the received levels, or acoustic thresholds, at which individual marine mammals are predicted to experience changes in their hearing sensitivity for acute, incidental exposure to all underwater anthropogenic sound sources. The Guidance (Appendix D) and its companion User Spreadsheet provide alternative methodology for incorporating these more complex thresholds and associated weighting functions.

The User Spreadsheet accounts for effective hearing ranges using Weighting Factor Adjustments (WFAs), and ADOT&PF’s application uses the recommended values for vibratory and impact driving therein. The acoustic thresholds are presented using dual

metrics of SEL_{cum} and peak sound level (PK) as shown in Table 5. In the case of the dual metric acoustic thresholds (L_{pk} and L_E) for impulsive sound, the larger of the two isopleths for calculating PTS onset is used. The method uses estimates of sound exposure level and duration of the activity to calculate the threshold distances at which a marine mammal exposed to those values would experience PTS. Differences in hearing abilities among marine mammals are accounted for by use of weighting factor adjustments for the five functional hearing groups (NMFS 2016). Note that for all proposed pile driving activities at Sand Point, the User Spreadsheet indicated that the Level A isopleths generated using the SEL_{cum} were the largest.

TABLE 5—SUMMARY OF PTS ONSET ACOUSTIC THRESHOLDS

Hearing group	PTS onset acoustic thresholds ¹ (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	Cell 1—Lpk,flat: 219 dB; LE,LF,24h: 183 dB.	Cell 2—LE,LF,24h: 199 dB.
Mid-Frequency (MF) Cetaceans	Cell 3—Lpk,flat: 230 dB; LE,MF,24h: 185 dB.	Cell 4—LE,MF,24h: 198 dB.
High-Frequency (HF) Cetaceans	Cell 5—Lpk,flat: 202 dB; LE,HF,24h: 155 dB.	Cell 6—LE,HF,24h: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	Cell 7—Lpk,flat: 218 dB; LE,PW,24h: 185 dB.	Cell 8—LE,PW,24h: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	Cell 9—Lpk,flat: 232 dB; LE,OW,24h: 203 dB.	Cell 10—LE,OW,24h: 219 dB.

¹ Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μ Pa, and cumulative sound exposure level (L_E) has a reference value of 1 μ Pa²s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript “flat” is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.*, varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Distance to Sound Thresholds

The sound field in the project area is the existing background noise plus additional construction noise from the proposed project. Marine mammals are expected to be affected via sound generated by the primary components of the project, *i.e.*, impact pile driving, vibratory pile driving, and vibratory pile removal. Vibratory hammers produce constant sound when operating, and produce vibrations that liquefy the sediment surrounding the pile, allowing it to penetrate to the required seating depth. An impact hammer would then generally be used to place the pile at its intended depth. The actual durations of each installation method vary depending on the type and size of the pile. An impact hammer is a steel device that works like a piston, producing a series of independent strikes to drive the pile. Impact hammering typically generates the loudest noise associated with pile installation. Factors that could potentially minimize the potential impacts of pile installation associated with the project include:

- The relatively shallow waters in the project area (Taylor *et al.*, 2008);
- Land forms around Sand Point that would block the noise from spreading; and
- Vessel traffic and other commercial and industrial activities in the project area that contribute to elevated background noise levels.

Sound would likely dissipate relatively rapidly in the shallow waters over soft seafloors in the project area. Additionally, portions of Popof Island and Unga Island would block much of the noise from propagating to its full extent through the marine environment.

In order to calculate distances to the Level A and Level B sound thresholds for piles of various sizes being used in this project, NMFS used acoustic monitoring data from other locations. Note that piles of differing sizes have different sound source levels.

Empirical data from recent ADOT&PF sound source verification (SSV) studies at Kake, Ketchikan, and Auke Bay, were used to estimate sound source levels (SSLs) for vibratory and impact installation of 30-inch steel pipe piles (MacGillivray *et al.*, 2016, Warner and Austin 2016b, Denes *et al.*, 2016a,

respectively). Construction sites in Alaska were generally assumed to best represent the environmental conditions found in Sand Point and represent the nearest available source level data for 30-inch steel piles. Similarities among the sites include island chains and groups of islands adjacent to continental landmasses; deeply incised marine channels and fjords; local water depths of 20–40 meters; Gulf of Alaska marine water influences; and numerous freshwater inputs. However, the use of data from Alaska sites was not appropriate in all instances. Details are described below.

To derive source levels for vibratory driving of 30-in piles, NMFS used summary data from Auke Bay and Ketchikan as described in a comprehensive summary report by Denes *et al.*, (2016b). During the two studies, three 30-inch steel piles were installed at each location via both impact and vibratory driving. For each pile, the mean recorded SPL in dB re 1 μ Pa was reported for the locations monitoring hydrophones (Denes *et al.*, 2016; Warner and Austin 2016b). The vibratory data were then derived to a 10-meter standard distance. The average of the mean source levels from both Auke Bay and Ketchikan locations was then calculated for each measurement (rms and peak SPL, as well as sound exposure level [SEL]) (Denes *et al.*, 2016b). ADOT&PF also considered data from a study in Kake (MacGillivray *et al.*, 2016). However, conditions at Kake include an organic mud substrate which would likely absorb sound and decrease source level values for vibratory driving. NMFS believes that these conditions resulted in anomalous source level measurements for vibratory pile driving that would not be expected at locations with dissimilar substrates. NMFS will continue to evaluate use of these data on a case-specific basis, however, for these reasons vibratory data from that study was not included in this analysis. Results are shown in Table 6.

For vibratory driving of 24-inch steel dolphin and fender piles, data from three projects (two projects in Washington and one in California) were reviewed. The Washington marine projects at the Washington State Ferries Friday Harbor Terminal (WSDOT, 2010) and Naval Base Kitsap, Bangor

waterfront (Navy 2012), only measured one pile each, but reported similar sound levels of 162 dB RMS and 159 dB RMS (range 157 dB to 160 dB), respectively. Because only two piles were measured in Washington, the California project was also included in the analysis. The California project was located in a coastal bay and reported a “typical” value of 160 dB RMS with a range 158 to 178 dB RMS for two piles where vibratory levels were measured. Caltrans summarized the project’s RMS level as 170 dB RMS, although most levels observed were nominally 160 dB. Although the data set is limited to these projects, close agreement of the levels (average project values from 159 to 162 dB at 10 meters) resulted in NMFS selecting a source level of 161 dB RMS. Note that a fourth project at NBK, Bangor drove 16-inch hollow steel piles, with measured levels similar to those for the 24-inch piles. Therefore, NMFS elected to use the same 161 dB RMS as a source level for vibratory driving of 18-inch steel piles. NMFS believes it appropriate to use source levels from the next largest pile size when data are lacking for specific pile sizes, as is the case with the 18-inch piles under consideration.

ADOT&PF suggested a source level of 142 dB RMS for vibratory driving of steel H-piles. However, NMFS found this data to be inconsistent with other reported values and opted to use a value of 150 dB which was derived from summary data pertaining to vibratory driving of 12-inch H piles (Caltrans 2015).

In the application, ADOT&PF derived source levels for impact driving of 30-inch steel piles by averaging the individual mean values associated with impact driving of the same size and type from Auke Bay, Kake, and Ketchikan (Denes *et al.*, 2016a; MacGillivray *et al.*, 2016; Warner and Austin 2016b; Denes *et al.*, 2016b). Impact driving values at Kake did not seem to be influenced by substrate conditions in the way vibratory driving measurements are believed to have been and, therefore, Kake data was included. The average of the mean source levels from these three sites was then calculated for each metric (rms, SEL, and peak). Results are shown in Table 6.

For the 24-inch impact pile driving, NMFS used data from a Navy (2015) study of proxy sound source values for use at Puget Sound military installations. The Navy study

recommended a value of 193 dB RMS which was derived from data generated by impact driving of 24-inch steel piles at the Bainbridge Island Ferry Terminal Preservation Project and the Friday

Harbor Restoration Ferry Terminal Project. NMFS found this estimated source level to be appropriate.

TABLE 6—ESTIMATES OF MEAN UNDERWATER SOUND LEVELS (DECIBELS) GENERATED DURING VIBRATORY AND IMPACT PILE INSTALLATION AND VIBRATORY PILE REMOVAL

Method and pile type	Sound level at 10 meters			Literature source
	dB re 1 μPa rms			
Vibratory hammer				
30-inch steel piles	165.6			Derived from Denes <i>et al.</i> 2016a (Auke); Warner and Austin 2016b (Ketchikan). WSDOT 2010; Caltrans 2012; Navy 2012. WSDOT 2010; Caltrans 2012; Navy 2012. Caltrans 2015.
24-inch steel piles	161			
18-inch steel piles	161			
Steel H-piles	150			
Impact hammer	dB rms	dB SEL	dB peak	
30-inch steel piles	193.6	179.3	207.1	Derived from Denes <i>et al.</i> 2016a; Warner and Austin 2016b, MacGillivray <i>et al.</i> , 2016. Navy 2015.
24-inch steel piles	193	181	210	

The formula below is used to calculate underwater sound propagation. Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

$$TL = B * \log_{10} (R_1/R_2)$$

Where:

TL = transmission loss in dB

B = transmission loss coefficient; for practical spreading equals 15

R₁ = the distance of the modeled SPL from the driven pile, and

R₂ = the distance from the driven pile of the initial measurement.

NMFS typically recommends a default practical spreading loss of 15 dB per tenfold increase in distance. ADOT&PF analyzed the available

underwater acoustic data utilizing the practical spreading loss model.

Pulse duration from the SSV studies described above are unknown. All necessary parameters were available for the SELcum (cumulative Single Strike Equivalent) method for calculating isopleths. Therefore, this method was selected. To account for potential variations in daily productivity during impact installation, isopleths were calculated for different numbers of piles that could be installed each day (Table 7). Should the contractor expect to install fewer piles in a day than the maximum anticipated, a smaller Level A shutdown zone would be employed to monitor take.

To derive Level A harassment isopleths associated with the impact driving of 30-inch piles, ADOT&PF utilized a single strike SEL of 179.3 dB and assumed 1000 strikes per pile for 1 to 4 piles per day. For 24-inch dolphin piles, ADOT&PF used a single strike SEL of 181 dB and assumed 400 strikes

at a rate of 1 or 2 piles per day. For 24-inch fender piles, ADOT&PF used the same single strike SEL of 181 dB and assumed 120 strikes per pile and 1 to 4 pile installations per day. To calculate Level A harassment isopleths associated with the vibratory driving of 30-inch piles, ADOT&PF utilized a source level (RMS SPL) of 165.6 dB and assumed 3 hours of driving per day. For 24-inch dolphin and fender piles, ADOT&PF used a source level of 161 dB and assumed up to 2 hours of driving per day. For installation and/or removal of piles less than 24-inches in diameter, ADOT&PF assumed use of 18-inch piles and used the same source level of 161 dB for up to 3 hours per day. If H-piles are used, a source level of 150 dB was utilized. Practical spreading was used in all instances. Results are shown in Table 7. Isopleths for Level B harassment associated with impact (160 dB) and vibratory harassment (120 dB) were also calculated and are included in Table 7.

TABLE 7—PILE INSTALLATION AND REMOVAL ACTIVITIES AND CALCULATED DISTANCES TO LEVEL A AND LEVEL B HARASSMENT ISOPLETHS ¹

Activity	Estimated duration		Level A harassment zone (meters) (based on new technical guidance)					Level B Harassment Zone (meters) (based on practical spreading loss model)
	Hours per day	Days of effort	Cetaceans			Pinnipeds		
			LF	MF	HF	PW	OW	Cetaceans and Pinnipeds (120 dB)
Vibratory Installation 30"	3	13	28.8	2.6	42.6	17.5	1.2	10,970 (10,964)
Vibratory Installation 24" Dolphin	1	2	6.8	0.6	10.1	4.2	0.3	
Vibratory Installation 24" Fender	2	2	10.8	1	16	6.6	0.5	5,420 (5,412)
Vibratory Installation and/or removal <24" (18")	3	15	14	1	21	8.6	0.6	

TABLE 7—PILE INSTALLATION AND REMOVAL ACTIVITIES AND CALCULATED DISTANCES TO LEVEL A AND LEVEL B HARASSMENT ISOPLETHS ¹—Continued

Activity	Estimated duration		Level A harassment zone (meters) (based on new technical guidance)					Level B Harassment Zone (meters) (based on practical spreading loss model)
	Hours per day	Days of effort	Cetaceans			Pinnipeds		
			LF	MF	HF	PW	OW	Cetaceans and Pinnipeds (120 dB)
Vibratory Installation and/or removal <24" (H-piles)	3	15	2.6	0.2	3.9	1.6	0.1	1,000

Activity	Piles per day	Strikes per pile	Days of effort	Cetaceans			Pinnipeds		Cetaceans and Pinnipeds (160 dB)
				LF	MF	HF	PW	OW	
Impact Installation 30"	4	1,000	13	1,426	51	1,699	763	56	1,740 (1,738)
	3		18	1,177	42	1,402	630	46	
	2		26	898	32	1,070	481	35	
	1		52	566	20	674	303	22	
Impact Installation 24" Dolphin	2	400	2	633	23	754	339	25	1,590 (1,585)
	1		3	399	14	475	213	16	
Impact Installation 24" Fender	4	120	2	450	16	537	241	18	1,590 (1,585)
	3		3	372	13	443	199	15	
	2		4	284	10	338	152	11	
	1		8	178	6	213	96	7	

¹ To account for potential variations in daily productivity during impact installation, isopleths were calculated for different numbers of piles that could be installed each day (Therefore, should the contractor expect to install fewer piles in a day than the maximum anticipated, a smaller Level A shutdown zone would be required to avoid take.)

Note that the actual area ensonified by pile driving activities is significantly constrained by local topography relative to the total threshold radius. The actual ensonified area was determined using a straight line-of-sight projection from the anticipated pile driving locations. The corresponding areas of the Level A and Level B ensonified zones for impact driving and vibratory installation/removal are shown in Table 8.

TABLE 8—CALCULATED AREAS (km²) ENSONIFIED WITHIN LEVEL A AND LEVEL B HARASSMENT THRESHOLDS IN EXCESS OF 100-METER DISTANCE DURING PILE INSTALLATION AND REMOVAL ACTIVITIES

Activity	Estimated duration		Level A harassment zone (km ²) (based on new technical guidance)					Level B harassment zone (km ²) (based on practical spreading loss model)
	Hours per day	Days of effort	Cetaceans			Pinnipeds		
			LF	MF	HF	PW	OW	Cetaceans and Pinnipeds (120 dB)
Vibratory Installation 30"	3	13	NA	NA	NA	NA	NA	24.42
Vibratory Installation 24" Dolphin	1	2	NA	NA	NA	NA	NA	17.19
Vibratory Installation 24" Fender	2	2	NA	NA	NA	NA	NA	
Vibratory Installation and/or removal <24" (18")	3	15	NA	NA	NA	NA	NA	
Vibratory Installation and/or removal <24" (H-piles)	3	15	NA	NA	NA	NA	NA	1.47

Activity	Piles per day	Strikes per pile	Days of effort	Cetaceans			Pinnipeds		Cetaceans and Pinnipeds (160 dB)
				LF	MF	HF	PW	OW	
Impact Installation 30"	4	1,000	13	2.84	NA	3.91	0.91	NA	4.08
	3		18	1.98	NA	2.75	0.66	NA	
	2		26	1.21	NA	1.66	0.41	NA	
	1		52	0.55	NA	0.74	0.18	NA	
Impact Installation 24" Dolphin	2	400	2	0.67	NA	0.89	0.22	NA	3.45
	1		3	0.29	NA	0.40	0.09	NA	

Activity	Piles per day	Strikes per pile	Days of effort	Cetaceans			Pinnipeds		Cetaceans and Pinnipeds (160 dB)
				LF	MF	HF	PW	OW	
Impact Installation 24" Fender	4	120	2	0.36	NA	0.50	0.11	NA	
	3		3	0.26	NA	0.35	0.08	NA	
	2		4	0.16	NA	0.22	0.04	NA	
	1		8	0.06	NA	0.09	0.02	NA	

Potential exposures to impact and vibratory pile driving noise for each threshold were estimated using local marine mammal density datasets where available and local observational data.

Dall's Porpoise

There currently is no information on the presence or abundance of Dall's porpoises in the Shumagin Islands. No sightings of Dall's porpoises have been documented in Humboldt Harbor and they are not expected to occur there (HDR 2017). However, individuals may occur in the deeper waters north of Popof Island or in Popof Strait, west of the Sand Point Airport. These porpoises have been sighted infrequently on research cruises heading in and out of Sand Point in deeper local waters (Speckman, Pers. Comm.). Dall's porpoise are non-migratory; therefore, exposure estimates are not dependent on season. Exposure of Dall's porpoise to noise from impact hammer pile installation is unlikely, as they are not expected to occur within the 1,738 meter Level B harassment zone. Similarly, we do not anticipate Dall's porpoise would be exposed to noise in excess of the Level A harassment threshold, which would be located at a maximum distance of 1,699 meters. It is possible, however, that they would occur in the larger Level B zone associated with vibratory driving of 30-inch (up to 10,970 meters) and 24-inch piles (up to 5,420 meters). Over the course of 40 days in which vibratory driving will be employed, NMFS conservatively anticipates no more than one observation of a Dall's porpoise pod in these Level B vibratory harassment zones. With an average pod size of 3.7 (Wade *et al.* 2003), NMFS estimates up to four Dall's porpoises could be taken during the pile installation period. No Level A take is proposed for Dall's porpoises.

Harbor Porpoise

There are no reports of harbor porpoises or harbor porpoise densities in the Shumagin Islands. It is reasonable to assume that they would occur in the vicinity of Popof and Unga Islands given that they are common in the Gulf of Alaska and their preferred habitat

consists of coastal waters of 100 meters or less (Hobbs and Waite 2010). Based on the known range of the Gulf of Alaska stock, only six sightings of singles or pairs during 110 days of monitoring of the Kodiak Ferry Terminal and Dock Improvements project, and occasional sightings during monitoring of projects at other locations on Kodiak Island, it is assumed that harbor porpoises could be present on an intermittent basis.

Harbor porpoises are non-migratory; therefore, exposure estimates are not dependent on season. NMFS conservatively estimates harbor porpoise could be exposed to construction-related in-water noise on two out of every three construction days. Harbor porpoises in this area have an average group size of 1.82. Therefore, NMFS estimates 49 harbor porpoise exposures as shown below.

Sighting every 0.667 days * 40 days of exposure * 1.82 group size = 49 (48.55) rounded up).

During impact installation of piles, the Level A harassment isopleth for harbor porpoises extends up to 1,699 meters when a maximum of four 30-inch piles are installed on the same day. Given that harbor porpoises prefer near-shore waters, we anticipate that it is possible for up to one-third of the harbor porpoise sighting to occur in a Level A harassment zone. Therefore, NMFS proposes that of the 49 exposures, 16 will occur within a Level A harassment isopleth and 33 will occur within a Level B harassment isopleth.

Killer Whale

Line transect surveys conducted in the Shumagin Islands between 2001 and 2003 did not record any resident killer whales, but did record a relatively high abundance of transient killer whales (Zerbini *et al.*, 2007). The same study estimated a density of approximately 0.002 killer whales per square kilometer (km²) in the Shumagin Islands (Zerbini *et al.*, 2007). The population trend of the transient stock of killer whales in Alaska has remained stable since the 1980s (Muto *et al.*, 2016a). Anecdotal observations indicate that killer whales are not often seen in the vicinity of Sand Point, including Popof Strait (HDR

2017). Killer whales are expected to be uncommon in the project area and are not expected to enter into Humboldt Harbor. However, NMFS used the density estimate of 0.002 per km² to determine the number of killer whales potentially observed within the project area. Given the low probability of occurrence within the project area, using the available density estimates as an indication of exposure is a conservative approach to estimate potential killer whale exposure to pile driving noise. Vibratory installation of 30-inch piles will occur on 13 days while vibratory installation of 24-inch dolphin piles, 24-inch fender piles, and temporary 18-inch or h-piles will occur on a total of 19 days. NMFS assumed that 18-inch piles would be installed instead of h-piles and that 18-inch piles have the same source level and isopleth as 24-in piles. NMFS also added a 25 percent contingency factor to account for unanticipated delays. Therefore, there would be up to 16.25 days of vibratory installation of 30-inch piles and 23.75 days of 24-inch piles. At a density of 0.002 whales/km², NMFS anticipates approximately 0.79 killer whales (*i.e.*, 0.002 whales/km² * 24.42 km² 30-inch vibratory harassment zone * 16.25 days) would be exposed to Level B harassment associated with 30-inch vibratory driving while 0.82 killer whales (*i.e.*, 0.002 whales/km² * 17.19 km² 24-inch vibratory harassment zone * 23.75 days) would be exposed to Level B harassment from 24-inch vibratory driving over 40 days. Over the 40 day construction period, 2 killer whales (1.61 rounded up) would be exposed to Level B harassment.

However, killer whales generally travel in pods, or groups of individuals. The average pod size for transient killer whales is four individuals (Zerbini *et al.* 2007) and 5–50 for resident killer whales (Heise *et al.* 2003). A monitoring report associated with issuance of an IHA for Kodiak Ferry Terminal and Dock Improvements Project recorded four killer whale pod observations during 110 days of monitoring with the largest pod size consisting of seven individuals. NMFS will, therefore, assume that there will be sightings of two pods with an average group size of

seven over the course of the 40-day construction period resulting in a total estimate of 14 killer whale Level B takes. These killer whales would likely be transients, but could also be residents, so take is proposed for both stocks. No Level A take is proposed for killer whales since the injury zone is smaller than the 100 meter shutdown zone.

Humpback Whale

Surveys from 2001 to 2004 estimated humpback whale abundance in the Shumagin Islands at between 410 and 593 individuals during the summer feeding season (July–August; Witteveen *et al.*, 2004; Zerbini *et al.*, 2006). Annual vessel-based, photo-identification surveys in the Shumagin Islands from 1999 to 2015 identified 654 unique individual humpback whales between June and September (Witteveen and Wynne 2016). Humpback whale abundance in the Shumagin Islands increased 6 percent per year between 1987 and 2003 (Zerbini *et al.*, 2006). Between 2001 and 2003, summer line transect surveys in the Shumagin Islands estimated the humpback whale density at 0.02 whales per km² (Zerbini *et al.*, 2006). Given an approximate population increase of 6 percent each year since the early 2000's (Muto *et al.*, 2016b), we conservatively estimate the current density of humpback whales as about 0.04 whale per km² (0.02 whale/km² * [6 percent increase/year * 13 years]).

Exposure of humpback whales to Level A and Level B harassment noise levels is possible in August and, to a lesser extent, in September. Exposure is unlikely between October and December because humpback whale abundance is low during late fall and winter. Humpback whales, when present, are unlikely to enter Humboldt Harbor or approach the City of Sand Point, but would instead transit through Popof Strait or feed in the deeper waters off the airport, between Popof and Unga islands (HDR 2017). Harassment from pile installation is possible in waters between Popof and Unga islands, including Popof Strait. Because we do not know exactly when construction might occur, we will use the updated summer density estimate (and our only density estimate) of 0.04 whales/km² to estimate exposure.

At a density of 0.04 whales/km², NMFS anticipates approximately 15.87 humpback whales (*i.e.*, 0.04 whales/km² * 24.42 km² 30-inch vibratory harassment zone * 16.25 days) would be exposed to harassment on days when 30-inch vibratory driving would occur. Additionally, 16.33 whales (*i.e.*, 0.04

whales/km² * 17.19 km² 24-inch vibratory harassment zone * 23.75 days) would be exposed to harassment on days in which 24-inch piles are driven for a total of 32 (32.2 rounded down) whale takes over 40 days.

A subset of the 32 humpback whales potentially exposed to harassment noise levels may enter the Level A harassment zone, which extends 1,426 meters assuming an optimal productivity of driving four 30-inch piles per day; 633 meters when driving two 24-inch dolphins; and 450 meters when driving four 24-inch fenders. NMFS has again added a 25 percent contingency and will assume 16.25 days of 30-inch impact pile driving, 2.5 days of 24-inch dolphin installation and 2.5 days of 24-inch fender installation. Note that when estimating Level A take, NMFS conservatively defaulted to the Level A isopleth and corresponding area associated with maximum number of piles that can driven each day for each pile size. We anticipate approximately 1.84 humpback whales (*e.g.*, 0.04 whales/km² * 2.84 km² Level A harassment zone * 16.25 days) would be exposed to Level A harassment during 30-inch impact pile driving; approximately 0.07 humpback whales (*e.g.*, 0.04 whales/km² * 0.67 km² Level A harassment zone * 2.5 days) would be exposed to Level A harassment during 24-inch dolphin installation; and approximately 0.04 humpback whales (*e.g.*, 0.04 whales/km² * 0.36 km² Level A harassment zone * 2.5 days) would be exposed to Level A harassment during 24-inch fender installation. Therefore, a total of 2 (1.95 rounded up) humpback whales could be exposed to Level A harassment. Therefore, NMFS is proposing 30 Level B and 2 Level A humpback whale takes.

Humpback whales found in the Shumagin Islands are predominantly members of the Hawaii DPS, which are not listed under the ESA. However, based on a comprehensive photo-identification study, members of both the Western North Pacific DPS (ESA-listed as endangered) and Mexico DPS (ESA-listed as threatened) are known to occur in the Gulf of Alaska and Aleutian Islands. Members of different DPSs are known to intermix on feeding grounds; therefore, all waters off the coast of Alaska should be considered to have ESA-listed humpback whales. According to Wade *et al.*, (2016), the probability of encountering a humpback whale from the Western North Pacific DPS in the Gulf of Alaska is 0.5 percent (CV [coefficient of variation] = 0.001). The probability of encountering a humpback whale from the Mexico DPS is 10.5 percent (CV = 0.16). The

remaining 89 percent (CV = 0.01) of individuals in the Gulf of Alaska are likely members of the Hawaii DPS (Wade *et al.*, 2016). Therefore it is estimated that 28 humpback whales would be from the Hawaii DPS, three humpback whales would be from the threatened Mexico DPS, and 1 humpback whale would be from the endangered Western North Pacific DPS. Given the small number of anticipated Level A takes, NMFS will assume that both authorized Level A takes represent members of the Hawaii DPS.

Fin Whale

Vessel-based line-transect surveys of coastal waters between Resurrection Bay and the central Aleutian Islands were completed in July and August from 2001 to 2003. Large concentrations of fin whales were found in the Semidi Islands, located midway between the Shumagin Islands and Kodiak Island just south of the Alaska Peninsula. The abundance of fin whales in the Shumagin Islands ranged from a low estimate of 604 in 2003 to a high estimate of 1,113 in 2002. The estimated density of fin whales in the Shumagin Islands was 0.007 whales per km² and this is the density estimate assumed for the project area (Zerbini *et al.*, 2006). Fin whale density in the Shumagin Islands at other times of the year is unknown, and they are uncommon in Humboldt Harbor or Popof Strait (HDR 2017). At a density of 0.007 whales/km², NMFS anticipates approximately 2.77 fin whales (*i.e.*, 0.007 whales/km² * 24.42 km² 30-inch vibratory harassment zone * 16.25 days) would be exposed to Level B harassment on days when 30-inch vibratory driving would occur. Additionally, 2.86 whales (*i.e.*, 0.007 whales/km² * 17.19 km² 24-inch vibratory harassment zone * 23.75 days) would be exposed to Level B harassment on days in which 24-inch piles are driven for a total of 6 (5.63 rounded up) Level B takes of fin whales over 40 days. Therefore, NMFS is proposing 6 Level B fin whale takes. Fin whales are typically found in deep, offshore waters so no Level A take is proposed for this species.

Minke Whale

There are no population estimates for minke whales in Alaska; however, nearshore aerial surveys of the western Gulf of Alaska took place between 2001 and 2003. These surveys estimated the minke whale population in that area at approximately 1,233 individuals (Zerbini *et al.* 2006). Conservatively, minke whales could be exposed to construction-related noise levels year round. Surveys indicate a density of

0.001 minke whales per km² south of the Alaska Peninsula (including the Shumagin Islands). At a density of 0.001 whales/km², NMFS anticipates approximately 0.40 minke whales (*i.e.*, 0.001 whales/km² * 24.42 km² 30-inch vibratory harassment zone * 16.25 days) would be exposed to Level B harassment on days when 30-inch vibratory driving would occur. Additionally, 0.41 whales (*i.e.*, 0.001 whales/km² * 17.19 km² 24-inch vibratory harassment zone * 23.75 days) would be exposed to Level B harassment on days in which 24-inch piles are driven for a total of 1 (0.81 rounded up) level B take of minke whales over 40 construction days. With a pod size of two or three (NMFS 2015), NMFS proposes that three minke whales could be taken during the 40-day construction period. No Level A take is proposed for minke whales due to low abundance near the project area.

Gray Whale

Gray whales could potentially migrate through the area between March through May and November through January. Gray whale presence near Sand Point and in Humboldt Harbor is rare and unlikely to occur during the construction period. As such, exposure of gray whales to noise from impact hammer pile installation is unlikely, as they are not expected to occur within the 1,426 meter harassment zone. Harassment from vibratory pile installation is possible in the deeper water north of Popof Strait. Because there are no density estimates for the area and the rarity of gray whales within the project area, NMFS conservatively estimates that gray whales will not be observed more than one time during the construction period. Multiplying the one potential observation by the average pod size of 2.4 (Rugh *et al.*, 2005), NMFS estimates that two gray whales could be exposed to construction-related noise at the Level B harassment level over the course of the construction period. No Level A take is proposed for gray whales.

Steller Sea Lion

The number of unique individuals used to calculate take was based on information reported by the nearby seafood processing facility. It is estimated that about 12 unique individual sea lions likely occur in Humboldt Harbor each day during the pollock fishing seasons (HDR 2017). It is assumed that Steller sea lions may be present every day, and also that take will include multiple harassments of the same individual(s) both within and among days. It is also assumed that 12

unique individual sea lions occur in Humboldt Harbor each day and could potentially be exposed to Level B harassment over 40 days of construction. Given that the project area is located within the aquatic zones (*i.e.*, designated critical habitat) of two designated major haulouts (Sea Lion Rocks and The Whaleback), sea lions could commonly enter into the Level B ensouffied zone outside of the Humboldt Harbor. As such, it is assumed that an additional 12 animals per day may occur in the Level B harassment zone outside of Humboldt Harbor. Total exposures is calculated using the following equation:

24 sea lions per day * 40 days of exposure = 960 potential exposures

No Level A take is proposed for Steller sea lions since the Level A isopleths are smaller than the 100 meter shutdown zone.

Harbor Seal

Anecdotal observations indicate that harbor seals are uncommon in Humboldt Harbor proper (HDR 2017). However, they are expected to occur occasionally in the project area. The Kodiak Ferry Terminal and Dock Improvements Project on Kodiak Island recorded 13 single sightings of harbor seals during 110 days of monitoring. Although the harbor seal stock is different at Kodiak (South Kodiak stock) and the project sites are somewhat dissimilar, NMFS used this information to conservatively estimate that one harbor seal could be present near Sand Point on any given day. An aerial haulout survey in 2011 estimated that 15 harbor seals occupy the survey unit along the south coast of Popof Island (London *et al.*, 2015) and anecdotal observations indicate that harbor seals are known to occur intermittently near the airport (HDR 2017). NMFS conservatively estimates that one animal per day will be observed near the harbor while another animal will occur near the airport or elsewhere within an ensouffied zone. Therefore, NMFS proposes that up to two harbor seals may be taken each day during the 40-day pile installation period for a total of 80 authorized takes.

During impact installation of 30-inch piles, the Level A harassment isopleth for harbor seals extends out to a maximum distance of 763 meters on days when four piles are driven; out to 339 meters when two 24-inch dolphins are installed on the same day; and out to 241 meters when four fenders are installed on a single day. Harbor seals often act curious toward on-shore activities and are known to approach

humans, lifting their heads from the water to look around. Given that harbor seals are likely to be found in the near-shore environment, we are proposing limited Level A take since the impact pile driving injury zones can extend well beyond the 100 meter shutdown zone. We anticipate that up to one-third of harbor seal takes would be by Level A harassment resulting in 27 Level A and 53 Level B proposed takes of harbor seals.

Proposed Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, "and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking" for certain subsistence uses. 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.

In addition to the measures described later in this section, ADOT&PF will employ the following standard mitigation measures:

(a) Conduct briefings between construction supervisors and crews, and

marine mammal monitoring team, prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures, and;

(b) For in-water heavy machinery work other than pile driving (*e.g.*, standard barges, tug boats), if a marine mammal comes within 10 m, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions. This type of work could include the following activities: (1) Movement of the barge to the pile location; or (2) positioning of the pile on the substrate via a crane (*i.e.*, stabbing the pile).

(c) Work may only occur during daylight hours, when visual monitoring of marine mammals can be conducted.

The following measures would apply to ADOT&PF's mitigation requirements:

Establishment of Shutdown Zone—

For all pile driving activities, ADOT&PF will establish a shutdown zone. The purpose of a shutdown zone is generally to define an area within which shutdown of activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). In this case, shutdown zones are intended to contain areas in which SPLs equal or exceed acoustic injury criteria for some authorized species, based on NMFS' new acoustic

technical guidance published in the **Federal Register** on August 4, 2016 (81 FR 51693). The shutdown zones vary for specific species. A conservative shutdown zone of 100 meters will be monitored during all pile driving activities to prevent Level A exposure to most species. During vibratory installation of piles of all sizes and impact installation of 24-inch piles, piles under 24 inches, and H-piles, a 100-meter shutdown zone would prevent Level A take to marine mammals. A 100-meter shutdown zone would also be sufficient to prevent Level A take of mid-frequency cetaceans and otariid pinnipeds (*i.e.*, Steller sea lions) during impact installation of 30-inch and 24-inch piles. Note that Level A take is not proposed for the low-frequency species of fin whale, gray whale and minke whale, mid-frequency killer whale and high-frequency Dall's porpoise since estimated take numbers are low. In the unlikely occurrence that animals of these species are observed approaching their respective Level A zones, pile driving operations will shut down.

Establishment of Level A Take Zone—

ADOT&PF will establish Level A take zones which are areas beyond the shutdown zones where animals may be exposed to sound levels that could result in PTS. During impact installation of 30-inch and 24-inch piles, a 100-meter shutdown zone would not be sufficient to prevent Level A take of

low-frequency cetaceans (*i.e.*, humpback whales), high-frequency cetaceans (*i.e.*, harbor porpoises), or phocid pinnipeds (*i.e.*, harbor seals). For this reason, Level A take for small numbers of humpback whales, harbor porpoises, and harbor seals is proposed.

To account for potential variations in daily productivity during impact installation, isopleths were calculated for different numbers of piles that could be installed each day. Therefore, should the contractor expect to install fewer piles in a day than the maximum anticipated, a smaller Level A shutdown zone reflecting the number of piles driven would be required to avoid take. Furthermore, if the first pile is driven and no marine mammals have been observed within the radius of corresponding Level A zone, then the Level A radius for the next pile shall be decreased to next largest Level A radius. This pattern shall continue unless an animal is observed within the most recent shutdown zone radius, at which that specific shutdown radius shall remain in effect for the rest of the workday. Additionally, if piles of different sizes are installed in a single day, the size of the monitored Level A zone for all installed piles will default to the isopleth corresponding to the largest pile being driven that day. Level A zones will be rounded up to the nearest 10 m and are depicted in Table 9.

TABLE 9—LEVEL A ZONE ISOPLETHS DURING IMPACT DRIVING

Activity	Piles installed per day	Isopleths (m)		
		LF (Humpback whales)	HF (Harbor porpoises)	PW (Harbor seals)
Impact Installation 30"	4	1,430 (1,426)	1,700 (1,699)	770 (763)
	3	1,180 (1,177)	1,410 (1,402)	630 (630)
	2	900 (898)	1,070 (1,070)	490 (481)
	1	570 (566)	680 (674)	310 (303)
Impact Installation 24" Dolphin	2	640 (633)	760 (754)	340 (339)
	1	400 (399)	480 (475)	220 (213)
Impact Installation 24" Fender	4	450 (450)	540 (537)	250 (241)
	3	380 (372)	450 (443)	200 (199)
	2	290 (284)	340 (338)	160 (152)
	1	180 (178)	220 (213)	100 (96)

Establishment of Disturbance Zones—

ADOT&PF will establish Level B disturbance zones or zones of influence (ZOI) which are areas where SPLs equal or exceed 160 dB rms for impact driving and 120 dB rms during vibratory driving. Disturbance zones provide

utility for monitoring by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring of disturbance zones enables observers to be aware of and communicate the presence of marine mammals in the project area but outside the shutdown

zone and thus prepare for potential shutdowns of activity. The Level B zone isopleths will be rounded up to the nearest 10 m and are depicted in Table 10.

TABLE 10—LEVEL B ZONE ISOPLETHS DURING IMPACT AND VIBRATORY DRIVING

Activity	Level B harassment zone (meters) (based on practical spreading loss model)
	Cetaceans and Pinnipeds (120 dB)
Vibratory Installation 30"	10,970 (10,964)
Vibratory Installation 24" Dolphin	5,420 (5,412)
Vibratory Installation 24" Fender	5,420 (5,412)
Vibratory Installation and/or removal <24" or H-piles	5,420 (5,412)
Activity	Cetaceans and Pinnipeds (160 dB)
Impact Installation 30"	1,740 (1,738)
Impact Installation 24" Dolphin	1,740 (1,738)
Impact Installation 24" Fender	1,740 (1,738)

Soft Start—The use of a soft-start procedure is believed to provide additional protection to marine mammals by providing warning and/or giving marine mammals a chance to leave the area prior to the hammer operating at full capacity. For impact pile driving, contractors will be required to provide an initial set of strikes from the hammer at 40 percent energy, each strike followed by no less than a 30-second waiting period. This procedure will be conducted a total of three times before impact pile driving begins. Soft Start is not required during vibratory pile driving and removal activities.

Pre-Activity Monitoring—Prior to the start of daily in-water construction activity, or whenever a break in pile driving of 30 minutes or longer occurs, the observer will observe the shutdown and monitoring zones for a period of 30 minutes. The shutdown zone will be cleared when a marine mammal has not been observed within zone for that 30-minute period. If a marine mammal is observed within the shutdown zone, a soft-start cannot proceed until the animal has left the zone or has not been observed for 30 minutes (for cetaceans) and 15 minutes (for pinnipeds). If the Level B harassment zone has been observed for 30 minutes and non-permitted species are not present within the zone, soft start procedures can commence and work can continue even

if visibility becomes impaired within the Level B zone. If the Level B zone is not visible while work continues, exposures will be recorded at the estimated exposure rate for each permitted species. If work ceases for more than 30 minutes, the pre-activity monitoring of both zones must recommence.

Sound Attenuation Devices—During impact pile driving, contractors will be required to use pile caps. Pile caps reduce the sound generated by the pile, although the level of reduction can vary.

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 adverse 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 ensuring that the most value is obtained from the required monitoring.

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

- Occurrence of marine mammal species or stocks in the action area (e.g., presence, abundance, distribution, density).
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (e.g., source characterization, propagation, ambient noise); (2) affected species (e.g., life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (e.g., age, calving or feeding areas).

- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors.

- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks.

- Effects on marine mammal habitat (e.g., marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat).

- Mitigation and monitoring effectiveness.

Visual Marine Mammal Observation

Monitoring will be conducted by qualified marine mammal observers (MMOs), who are trained biologists, with the following minimum qualifications:

- Independent observers (i.e., not construction personnel) are required;
- At least one observer must have prior experience working as an observer;
- Other observers may substitute education (undergraduate degree in biological science or related field) or training for experience;
- Ability to conduct field observations and collect data according to assigned protocols.
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior;
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary;
- NMFS will require submission and approval of observer CVs.

In order to effectively monitor the pile driving monitoring zones, two MMOs will be positioned at the best practical vantage point(s). The monitoring position may vary based on pile driving activities and the locations of the piles

and driving equipment. The monitoring location(s) will be identified with the following characteristics: (1) Unobstructed view of pile being driven; (2) Unobstructed view of all water within the Level A (if applicable) and Level B harassment zones for pile being driven, although it is understood that monitoring may be impaired at longer distances; and (3) Safe distance from pile driving activities in the construction area. If necessary, observations may occur from two locations simultaneously. Potential observation locations include the existing City Dock, the airport, the fish processing facility, or the quarry hillside located south of the project site.

Observers will be on site and actively observing the shutdown and disturbance zones during all pile driving and extraction activities. Observers will use their naked eye with the aid of binoculars, big-eye binoculars and a spotting scope to search continuously for marine mammals during all pile driving and extraction activities.

The following additional measures apply to visual monitoring:

- If waters exceed a sea-state which restricts the observers' ability to make observations within 100 m of the pile driving activity (e.g., excessive wind or fog), pile installation and removal will cease. Pile driving will not be initiated until the entire shutdown zone is visible.
- If a marine mammal authorized for Level A take is present within the Level A harassment zone, a Level A take would be recorded. If Level A take reaches the authorized limit, then pile installation would be stopped as these species approach the Level A harassment area to avoid additional take of these species.
- If a marine mammal authorized for Level B take is present in the Level B harassment zone, pile driving activities or soft-start may begin and a Level B take would be recorded. Pile driving activities may occur when these species are in the Level B harassment zone, whether they entered the Level B zone from the Level A zone (if relevant), shutdown zone or from outside the project area. If Level B take reaches the authorized limit, then pile installation would be stopped as these species approach to avoid additional take of these species.
- If a marine mammal is present in the Level B harassment zone, pile driving activities may be delayed to avoid a Level B take of an authorized species. Pile driving activities or soft-start would then begin only after the MMO has determined, through sighting,

that the animal(s) has moved outside the Level B harassment zone or if it has not been seen in the Level B zone for 30 minutes (for cetaceans) and 15 minutes (for pinnipeds).

- If any marine mammal species not authorized for take are encountered during activities and are likely to be exposed to Level B harassment, then ADOT&PF must stop pile driving activities and report observations to NMFS' Office of Protected Resources;
 - When a marine mammal is observed, its location will be determined using a rangefinder to verify distance and a GPS or compass to verify heading.
 - The MMOs will record any authorized cetacean or pinniped present in the relevant injury zone. The Level A zones are shown in Table 9.
 - The MMOs will record any authorized cetacean or pinniped present in the relevant disturbance zone. The Level B zones are shown in Table 10.
 - Ongoing in-water pile installation may be continued during periods when conditions such as low light, darkness, high sea state, fog, ice, rain, glare, or other conditions prevent effective marine mammal monitoring of the entire Level B harassment zone. MMOs would continue to monitor the visible portion of the Level B harassment zone throughout the duration of driving activities.
 - At the end of the pile driving day, post-construction monitoring shall be conducted for 30 minutes beyond the cessation of pile driving;

Data Collection

Observers are required to use approved data forms. Among other pieces of information, ADOT&PF will record detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any. In addition, the ADOT&PF will attempt to distinguish between the number of individual animals taken and the number of incidents of take. At a minimum, the following information will be collected on the sighting forms:

- Date and time that monitored activity begins or ends;
- Construction activities occurring during each observation period;
- Detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any;
 - Weather parameters (e.g., percent cover, visibility);

- Water conditions (e.g., sea state, tide state);
- Species, numbers, and, if possible, sex and age class of marine mammals;
- Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from pile driving activity;
- Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;
- Locations of all marine mammal observations; and
- Other human activity in the area.

Reporting

ADOT&PF will notify NMFS prior to the initiation of the pile driving activities and will provide NMFS with a draft monitoring report within 90 days of the conclusion of the construction work. This report will detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed, including the total number extrapolated from observed animals across the entirety of relevant monitoring zones. If no comments are received from NMFS within 30 days of submission of the draft final report, the draft final report will constitute the final report. If comments are received, a final report must be submitted within 30 days after receipt of comments.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival" (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (i.e., population-level effects). An estimate of the number of takes, alone, is not enough information on which to base an impact determination. In addition to considering the authorized number of marine mammals that might be "taken" through harassment, NMFS considers other factors, such as the likely nature of any responses (e.g., intensity, duration), the context of any responses (e.g., critical reproductive time or location, migration, etc.), as well as effects on habitat, the status of the affected stocks, and the likely effectiveness of the mitigation. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the

impacts from other past and ongoing anthropogenic activities are incorporated into these analyses via their impacts on the environmental baseline (e.g., as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, the discussion of our analyses applies to all the species listed in Table 3. There is little information about the nature of severity of the impacts or the size, status, or structure of any species or stock that would lead to a different analysis for this activity.

Pile driving and extraction activities associated with the Sand Point City Dock Replacement Project, as outlined previously, have the potential to injure, disturb or displace marine mammals. Specifically, Level A harassment (injury) in the form of PTS may occur to a limited number of three marine mammal species while a total of nine species could experience Level B harassment (behavioral disturbance). Potential takes could occur if individuals of these species are present in Level A or Level B ensonified zones when pile driving or removal is under way.

No mortality is anticipated to result from this activity. Limited take of three species of marine mammal by Level A harassment (injury) is authorized due to potential auditory injury (PTS) that cannot reasonably be prevented through mitigation. The marine mammals authorized for Level A take (27 harbor seals, 16 harbor porpoises, and 2 humpback whales) are estimated to experience PTS if they remain within the outer limits of a Level A harassment zone during the entire time that impact pile driving would occur during a single day. Marine mammal species, however, are known to avoid areas where noise levels are high (Richardson *et al.*, 1995). Animals would likely move away from the sound source and exit the Level A zone. Because of the proximity to the source in which the animals would have to approach, and the longer time in which they would need to remain in a farther proximity from the sound source within a Level A zone, we believe the likelihood of marine mammals experiencing PTS is low but acknowledge it could occur. Although NMFS is authorizing limited take by PTS, the anticipated takes reflect the onset of PTS, which would be relatively mild, rather than severe PTS which would be expected to have more impact on an animal's overall fitness.

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (e.g., Thorson and Reyff 2006; Lerma 2014). Most likely, individuals will simply move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. In response to vibratory driving, pinnipeds (which may become somewhat habituated to human activity in industrial or urban waterways) have been observed to orient towards and sometimes move towards the sound. The pile driving and extraction activities analyzed here are similar to, or less impactful than, numerous construction activities conducted in similar locations in Alaska, which have taken place with no reported serious injuries or mortality to marine mammals, and no known long-term adverse consequences from behavioral harassment. Repeated exposures of individuals to levels of sound that may cause Level B harassment are unlikely to result in hearing impairment or to significantly disrupt foraging behavior. Thus, even repeated Level B harassment of some small subset of the overall stock is unlikely to result in any significant realized decrease in fitness for the affected individuals, and would not result in any adverse impact to the stock as a whole.

ADOT&PF's proposed activities are localized and of relatively short duration. The entire project area is limited to the Sand Point dock area and its immediate surroundings. Specifically, the use of impact driving will be limited to approximately 22 hours over the course of up to 40 days of construction. Total vibratory pile driving time is estimated at approximately 85 hours over the same period. While impact driving does have the potential to cause injury to marine mammals, mitigation in the form of a 100 m shutdown zone should limit exposure to potentially injurious sound.

The project is not expected to have significant adverse effects on marine mammal habitat. No important marine mammal reproductive areas, such as rookeries, are known to exist within the ensonified areas. The proposed project is located within the aquatic zones (*i.e.*, designated critical habitat) of two major Steller sea lion haul outs, and the Level B underwater harassment zone

associated with the proposed project overlaps with a third. The closest major haulout is approximately 27 km distant. The project activities are limited in time and would not modify existing marine mammal habitat. EFH near the project area has been designated for a number of species. While the activities may cause some fish to leave the area of disturbance, temporarily impacting marine mammals' foraging opportunities, this would encompass a relatively small area of habitat leaving large areas of existing fish and marine mammal foraging habitat unaffected. As such, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

In summary, this negligible impact analysis is founded on the following factors: (1) The possibility of serious injury or mortality to authorized species may reasonably be considered discountable; (2) the likelihood that PTS could occur in a limited number of animals is low, but acknowledged; (3) the anticipated incidences of Level B harassment consist of, at worst, temporary modifications in behavior or potential TTS; (4) the limited temporal and spatial impacts on marine mammals or their habitat; (5) the absence of any major haul outs or rookeries near the project area; and (6) the presumed efficacy of the planned mitigation measures in reducing the effects of the specified activity to the level of effecting the least practicable impact upon the affected species. In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the potential effects of the specified activity will have only short-term effects on individuals. The specified activity is not expected to impact rates of recruitment or survival and will therefore not result in population-level impacts.

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 planned monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from ADOT&PF's Sand Point City Dock Replacement Project 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.

Table 11 presents the number of animals that could be exposed to received noise levels that could cause

Level A and Level B harassment for the proposed work at the Sand Point Dock Replacement Project. Our analysis shows that between <0.01 percent and 3.07 percent of the populations of affected stocks could be taken by harassment. Therefore, the numbers of animals authorized to be taken for all species would be considered small relative to the relevant stocks or

populations even if each estimated taking occurred to a new individual—an extremely unlikely scenario. For pinnipeds, especially Steller sea lions, occurring in the vicinity of the project site, there will almost certainly be some overlap in individuals present day-to-day, and these takes are likely to occur only within some small portion of the overall regional stock.

TABLE 11—SUMMARY OF THE ESTIMATED NUMBERS OF MARINE MAMMALS POTENTIALLY EXPOSED TO LEVEL A AND LEVEL B HARASSMENT NOISE LEVELS

Species (DPS/stock)	Estimated number of individuals potentially exposed to the Level A harassment threshold	Estimated number of individuals potentially exposed to the Level B harassment threshold	DPS/stock abundance (DPS/stock)	Percent of population exposed to Level A or Level B thresholds
Steller sea lion (wDPS)	0	960	50,983	1.88.
Harbor seal (Cook Inlet/Shelikof Strait)	27	53	27,386	0.29.
Harbor porpoise (Gulf of Alaska)	16	33	31,046	0.16.
Dall's porpoise (Alaska)	0	4	83,400	<0.01.
Killer whale (Gulf of Alaska, Aleutian Islands, and Bering Sea transient or Alaska resident).	0	18	587 (transient)	3.07 (transient).
			2,347 (resident)	0.76 (resident).
Humpback whale ¹ (Central North Pacific)	2	30	10,103	0.32.
Fin whale (Northeast Pacific)	0	6	1,368 ²	0.44.
Gray whale (Eastern North Pacific)	0	2	20,990	<0.01.
Minke whale (Alaska)	0	3	2,020 ³	<0.01.
Total	66	590	N/A	N/A.

¹ The Hawaii DPS is estimated to account for approximately 89 percent of all humpback whales in the Gulf of Alaska, whereas the Mexico and Western North Pacific DPSs account for approximately 10.5 percent and 0.5 percent, respectively (Wade *et al.* 2016; NMFS 2016). Therefore, an estimated 28 animals from Hawaii DPS; 3 from Mexico DPS; And 1 from Western North Pacific DPS.

² Based on 2010 survey of animals north and west of Kenai Peninsula in U.S. waters and is likely an underestimate (Muto *et al.* 2016b).

³ Based on 2010 survey on Eastern Bering Sea shelf. Considered provisional and not representative of abundance of entire stock (Muto *et al.* 2016a).

N/A: Not Applicable.

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. The proposed project is not known to occur in a subsistence hunting area. It is a developed area with regular marine vessel traffic. Additionally, ADOT&PF has spoken with local officials about concerns regarding impacts to subsistence uses and none were expressed. Therefore, NMFS has preliminarily determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such

species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

Issuance of an MMPA authorization requires compliance with the ESA. There are DPSs of two marine mammal species that are listed as endangered under the ESA with confirmed or possible occurrence in the study area: The WNP DPS and Mexico DPS of humpback whale and the western DPS of Steller sea lion. NMFS will initiate formal consultation under Section 7 of the ESA with NMFS Alaska Regional Office. NMFS will issue a Biological Opinion that will analyze the effects to ESA listed species as well as critical habitat. The ESA consultation will conclude prior to reaching a determination regarding the proposed issuance of the authorization.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to ADOT&PF for conducting pile driving and extraction activities

associated with the reconstruction of the city dock in Sand Point, Alaska 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 Authorization is valid from August 1, 2018, through July 31, 2019.

2. This Authorization is valid only for activities associated with in-water construction work at the Sand Point City Dock Replacement Project in Sand Point, Alaska.

3. General Conditions

(a) A copy of this IHA must be in the possession of ADOT&PF, its designees, and work crew personnel operating under the authority of this IHA.

(b) The species and number of animals authorized for taking by Level A and Level B harassment are shown in Table 11 and include: Harbor seal (*Phoca vitulina*), Steller sea lion (*Eumetopias jubatus*), harbor porpoise (*Phocoena phocoena*), Dall's porpoise

(*Phocoenoides dalli*), killer whale (*Orcinus orca*), gray whale (*Eschrichtius robustus*), humpback whale (*Megaptera novaeangliae*), fin whale (*Balaenoptera physalus*) and minke whale (*Balaenoptera acutorostrata*).

(c) ADOT&PF shall conduct briefings between construction supervisors and crews and the marine mammal monitoring team prior to the start of all pile driving activity.

(d) For in-water heavy machinery work other than pile driving (e.g., standard barges, tug boats, barge-mounted excavators), if a marine mammal comes within 10 m, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions.

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

4. Prohibitions

(a) The taking, by incidental harassment only, is limited to the species listed under condition 3(b) above and by the numbers listed in Table 11 of this notice. The taking by death of these species or the taking by harassment, injury or death of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this Authorization.

5. Mitigation Measures

The holder of this Authorization is required to implement the following mitigation measures.

(a) Shutdown Measures.

(i) ADOT&PF shall implement shutdown measures if a marine mammal is detected within or approaching the specified 100 m shutdown zone.

(ii) Shutdown shall occur if low-frequency cetaceans (i.e. fin whale, gray whale, minke whale), mid-frequency cetaceans (i.e. killer whale), or high-frequency cetaceans (Dall's porpoise) approach relevant Level A take isopleths since Level A take of these species is not authorized.

(ii) ADOT&PF shall implement shutdown measures if the number of any allotted marine mammal takes reaches the limit under the IHA and if such marine mammals are sighted within the vicinity of the project area and are approaching their respective Level A or Level B harassment zone.

(b) ADOT&PF shall establish Level A harassment zones as shown in Table 9.

(i) For impact pile driving, the Level A harassment zone defaults to the isopleth corresponding to the number of piles planned for installation on a given day as shown in Table 9.

(ii) After the first pile is driven, if no marine mammals have been observed within the radius of the corresponding

Level A zone, then the Level A radius for the next pile shall be decreased to the next largest Level A radius. This pattern shall continue unless an animal is observed within the most recent shutdown zone radius, at which that specific shutdown radius shall remain in effect for the rest of the workday.

(ii) If piles of varying sizes are installed in a single day, the radius of the Level A zone shall default to the isopleth for the largest pile being driven on that workday.

(b) ADOT&PF shall establish Level B harassment zones for impact and vibratory driving as shown in Table 10.

(c) Soft Start.

(i) When there has been downtime of 30 minutes or more without impact pile driving, the contractor shall initiate the driving with ramp-up procedures described below.

(ii) Soft start for impact hammers requires contractors to provide an initial set of strikes from the impact hammer at 40 percent energy, followed by no less than a 30-second waiting period. This procedure shall be conducted a total of three times before impact pile driving begins.

(d) Pre-Activity Monitoring.

(i) Prior to the start of daily in-water construction activity, or whenever a break in pile driving of 30 minutes or longer occurs, the observer(s) shall observe the shutdown and monitoring zones for a period of 30 minutes.

(ii) The shutdown zone shall be cleared when a marine mammal has not been observed within that zone for that 30-minute period.

(iii) If a marine mammal is observed within the shutdown zone, a soft-start can proceed if the animal is observed leaving the zone or has not been observed for 30 minutes (for cetaceans) or 15 minutes (for pinnipeds), even if visibility of Level B zone is impaired.

(iv) If the Level B zone is not visible while work continues, exposures shall be recorded at the estimated exposure rate for each permitted species.

(e) Pile caps shall be used during all impact driving.

6. Monitoring

(a) Monitoring shall be conducted by qualified marine mammal observers (MMOs), with minimum qualifications as described previously in the *Monitoring and Reporting* section.

(b) Two observers shall be on site and actively observing the shutdown and disturbance zones during all pile driving and extraction activities.

(c) Observers shall use their naked eye with the aid of binoculars, big-eye binoculars and a spotting scope during all pile driving and extraction activities.

(d) Monitoring location(s) shall be identified with the following characteristics:

(i) Unobstructed view of pile being driven;

(ii) Unobstructed view of all water within the Level A (if applicable) and Level B harassment zones for pile being driven.

(f) If waters exceed a sea-state which restricts the observers' ability to make observations within the marine mammal shutdown zone of 100 m (e.g., excessive wind or fog), pile installation and removal shall cease. Pile driving shall not be initiated until the entire shutdown zone is visible.

(g) If a marine mammal authorized for Level A take is present within the Level A harassment zone, a Level A take would be recorded. If Level A take reaches the authorized limit, then pile installation would be stopped as these species approach the Level A harassment area to avoid additional take of these species.

(h) If a marine mammal authorized for Level B take is present in the Level B harassment zone, pile driving activities or soft-start may begin and a Level B take would be recorded. If Level B take reaches the authorized limit, then pile installation would be stopped as these species approach to avoid additional take of these species.

(i) Marine mammal location shall be determined using a rangefinder and a GPS or compass.

(j) Ongoing in-water pile installation may be continued during periods when conditions such as low light, darkness, high sea state, fog, ice, rain, glare, or other conditions prevent effective marine mammal monitoring of the entire Level B harassment zone. MMOs would continue to monitor the visible portion of the Level B harassment zone throughout the duration of driving activities.

(k) Post-construction monitoring shall be conducted for 30 minutes beyond the cessation of pile driving at end of day.

7. Reporting

The holder of this Authorization is required to:

(a) Submit a draft report on all monitoring conducted under the IHA within ninety calendar days of the completion of marine mammal and acoustic monitoring. This report shall detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed, including the total number extrapolated from observed animals across the entirety of relevant monitoring zones. A final report shall be prepared and submitted within thirty

days following resolution of comments on the draft report from NMFS. This report must contain the following:

- (i) Date and time that monitored activity begins or ends;
- (ii) Construction activities occurring during each observation period;
- (iii) Record of implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any;
- (iv) Weather parameters (*e.g.*, percent cover, visibility);
- (v) Water conditions (*e.g.*, sea state, tide state);
- (vi) Species, numbers, and, if possible, sex and age class of marine mammals;
- (vii) Description of any observable marine mammal behavior patterns;
- (viii) Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;
- (ix) Locations of all marine mammal observations; and

(x) Other human activity in the area.

(b) 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, ADOT&PF shall immediately cease the specified activities and report the incident to the Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinator, NMFS. The report must include the following information:

1. Time, date, and location (latitude/longitude) of the incident;
2. Name and type of vessel involved;
3. Vessel's speed during and leading up to the incident;
4. Description of the incident;
5. Water depth;
6. Environmental conditions (*e.g.*, wind speed and direction, Beaufort sea state, cloud cover, and visibility);
7. Description of all marine mammal observations and active sound source use in the 24 hours preceding the incident;
8. Species identification or description of the animal(s) involved;
9. Fate of the animal(s); and
10. Photographs or video footage of the animal(s).

ADOT&PF may not resume their activities until notified by NMFS. (ii) In the event that ADOT&PF discovers an injured or dead marine mammal, and the lead observer determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.*, in less than a moderate state of decomposition), ADOT&PF shall immediately report the incident to the Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinator, NMFS. The report must include the same information identified in 6(b)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS shall work with ADOT&PF to determine whether additional mitigation measures or modifications to the activities are appropriate.

(iii) In the event that ADOT&PF 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), ADOT&PF shall report the incident to the Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinator, NMFS, within 24 hours of the discovery. ADOT&PF shall provide photographs or video footage or other documentation of the stranded animal sighting to NMFS.

7. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if NMFS determines the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.

Request for Public Comments

We request comment on our analyses, the draft authorization, and any other aspect of this Notice of Proposed IHA for ADOT&PF's Sand Point City Dock Replacement Project. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

Dated: June 30, 2017.

Donna S. Wieting,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

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